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COMPREHENSIVE FEDERALISM REFORM

HEARING

BEFORE THE

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INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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COMPREHENSIVE FEDERALISM REFORM

FRIDAY, SEPTEMBER 26, 1986

U.S. Senate,
Subcommittee on Intergovernmental Relations,
Committee on Governmental Affairs,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:32 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senators Durenberger and Roth.

Also present: Senator Evans.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator Durenberger. The hearing will come to order.

The subject of today's hearing can be summed up in a single word, and that word is "responsibility." For the last two decades, we have, all of us at various times, known what was wrong with the Federal system, and for the last decade or so we have had a pretty good idea of what we ought to do to fix it. But knowing what we ought to do, and getting it done, are two very different matters.

Federalism reform, or periodic federalism, is not going to happen until we take the responsibility of making federalism decisions. By we, I mean the Federal Government, the State and local governments, and the American people.

For the Federal Government this means finally admitting our responsibility to the poor, establishing a real safety net that supports people on an equal basis—Mississippi as well as Minnesota, New York, or Delaware.

For State and local governments, this means abandoning the old illusions that we can have it all, that we can have it both ways: Federal aid for every purpose under the Sun, everywhere on an equal basis, whether it is Bedford-Stuyvesant or Beverly Hills.

Finally, responsible federalism makes demands on people, as well as governments. Take the case of welfare. Government has a responsibility to provide a minimum level of resources, but the individual and the family have responsibilities as well, both to themselves and to society as a whole.

Legislation that Senator Evans and I will soon introduce in the Senate,[1] and that Tom Downey and others will introduce in the House, is simply about responsible federalism. It is well suited to the year 1987, a year in which we will celebrate the bicentennial of our Constitution, and the beginning of the 100th Congress of the United States.

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[1] See p. 55.

This hearing today is also not just about one single piece of legislation, but rather it is about the future direction of our system of governance, and it is about the most fundamental questions concerning the role of government in our society, questions like:

Which levels of governments should be responsible for delivering which services?

What should be the responsibility of government and society as a whole to assist individuals who have difficulty caring for themselves?

Should there be a uniform minimum level of income and services below which no American citizen should be permitted to fall?

What responsibilities do recipients of public assistance owe to themselves and to society at large?

Can States be trusted to administer devolved programs, given their dramatic advances in State institutional capacity, revenue-raising ability, and increased fairness in electoral participation?

Finally, in a period of fiscal retrenchment and record Federal deficits, how can we afford to meet competing demands for services in a fiscally responsible manner?

No issues could be more appropriate for our discussions as we stand on the verge of the 100th Congress and prepare to celebrate the bicentennial of our Constitution. Our interest in comprehensive federalism reform is not an intellectual exercise. It is not prompted by mere historical curiosity. There are three very contemporary problems that have combined to place these fundamental issues of governance on the forefront of our national agenda.

The first is welfare reform. As 1986 was the year of tax reform, it is likely that 1987 will be the year of welfare reform. As the extremes of family income grow wider in our society, the paradox of poverty in the midst of plenty grows more acute.

As the so-called underclass grows, and seemingly resists more than two decades of antipoverty programs, the call is out for redefining society's responsibility to the poor, and also for redefining the responsibility of individuals and families to society.

For all these reasons, the President has indicated that welfare may become an important item on his agenda next year. This hearing demonstrates that welfare reform will be a major item on the congressional agenda.

The second stimulus for this hearing, the longstanding problems in our system of cooperative federalism that demand a comprehensive reform. Despite the budget cuts, and block grants, there has been no systematic sorting out of Federal, State, and local responsibilities since 1980. That was the year when the Advisory Commission on Intergovernmental Relations concluded that our intergovernmental relations had become both less and more—less manageable, less effective, and less accountable; but more costly, more pervasive, and more intrusive.

In 1986, the intergovernmental aid system remains overloaded, overregulated, and overly complex. This intergovernmental confusion was increased, rather than reduced, by the third factor shaping federalism today, fiscal retrenchment.

During the past 6 years, we have begun to reshape our Federal aid system. Since 1980, Federal aid adjusted for inflation is down 24 percent, there is virtually no area untouched. In health services, real spending is down 14 percent; child nutrition grants, down another 14; mass transit, down 19 percent; economic development, down 39 percent; training and unemployment, down 69 percent.

In short, we in Washington have been busy restructuring by fiscal federalism, but we have been doing it almost by accident, without any rhyme or reason, and without any set of unifying principles. Except for cuts and a few block grants created back in 1981, most Federal programs remain unchanged.

But each year, we whittle off 10 percent here and 20 percent there; or we just freeze the budgets, let inflation do the cutting for us. Meanwhile, these programs become worth less and less, and the deficit continues to mount, and we do nothing to establish any sense of national purpose or national priority.

The irony of all this is that by trying to do everything we did in the past, when we can no longer afford to, we risk doing nothing very well. And we risk ignoring new problems or trying new approaches in dealing with old problems simply because they are not locked into today's budget.

The last time we addressed the issue of sorting out responsibilities in a serious way was back in 1982. At that time, I identified three sets of principles that I believe could help set and define the scope of legitimate national responsibilities, and help us all make the difficult choices we face.

The first were constitutional in nature: to secure the individual rights and liberties guaranteed to all Americans; to defend American interests and conduct foreign relations in the community of nations; and to promote economic growth and regulate interstate commerce.

Over the past 200 years, these broad constitutional dictates have been reinforced by a set of five, time-tested administrative principles which enhance efficiency and effectiveness in the conduct of government. These principles address problems that are widely experienced and can't be easily resolved by State and local action.

Problems, for example, where benefits spill over to citizens of other States—like protecting wilderness areas—but where competition among the States prevents them from acting in the public good, as regulating minimum wage and hours, or insuring against unemployment.

Finally, there are two principles of fairness, principles that reflect the needs of a changing America as we approach the 21st century. These principles establish first that the National Government has a responsibility to provide for the income security of all Americans. This includes the regulations of banking and pensions for the employed; social insurance for the retired, sick, and unemployed; and income maintenance for the poor.

The second principle of fairness recognizes a national responsibility to ease the disparities and fiscal capacity among the 50 States, and among communities, to provide a level of public services in those States and communities that lack the tax base to provide those services themselves.

Above all, it is these two national responsibilities to fill the gaps in our system of income security and to reduce fiscal disparities among States and localities that the legislation before us today seeks to address. It is these two principles of national community which create a solid foundation on which a truly responsible federalism can be built.

The legislation before us today is only a beginning, and today's hearing is only the first of many we will hold on this subject in 1987. As we take up this debate in our 100th Congress, let us be guided toward forming a more perfect union by embracing fairness across our national community, and by building on a firm foundation of national responsibilities that has sustained us for the last 200 years.

Beginning that dialog at today's hearing will reveal areas of difference as well as areas of agreement, and that is all to the good. I am certain that all the witnesses, despite their diversity, will agree that the time for fundamental change has come, and that this bill has all of us pointed in the right direction.

With that set of firsts, let us begin with our first witness, appropriately, of course, going back a couple of hundred years, the Governor or the Senator, depending on whether you are a federalist or antifederalist. Before he speaks, I am going to introduce the Senator—who, I am proud to say, is the chairman of this committee on which I serve—for purposes of introducing the Governor of one of our original colonies. My colleague, Bill Roth.

[Senator Durenberger's prepared statement follows:]

Prepared Statement of Senator Durenberger

The subject of today's hearing can be summed up in a single word: "responsibility." For two decades, we've known what's wrong with the federal system. For a decade, at least, we've had a pretty good idea about how to fix it.

But, knowing what we ought to do, and getting it done, are two different matters. Federalism reform is not going to happen until we take the responsibility to make some very tough decisions. By we, I mean the Federal Government, state and local governments, and the American people. All of us and each of us.

For the Federal Government, this means finally admitting our responsibility to the poor, establishing a real safety net that supports people on an equal basis—in Mississippi as well as in Minnesota.

For state and local governments, this means abandoning the old illusions that we can have it all!—and that we can have it both ways—federal aid for every purpose under the sun, everywhere on an equal basis, whether you're Bedford-Stuyvesant or Beverly Hills.

And, finally, responsible federalism makes demands on people as well as governments. Take the case of welfare. Government has a responsibility to provide a minimum level of resources. But, the individual and the family have responsibilities as well, both to themselves and to society.

The legislation that Dan Evans and I will soon introduce in the Senate, and that Tom Downey will introduce in the House, is about "responsible federalism."

While this legislation took over a year to develop, today's hearing does not mark an end to our discussion and debate on this subject. Instead, this legislation and this hearing will be the beginning of a dialogue which is well suited for the year 1987—a year in which we will celebrate the bicentennial of our Constitution and the beginning of the 100th Congress of the United States.

Nor is this hearing about a single piece of legislation. Rather it's about the future direction of our system of government. And it's about the most fundamental questions concerning the role of government in our society—questions like:

Which levels of government should be responsible for delivering which services?

What should be the responsibility of government—and of society as a whole—to assist individuals who have difficulty caring for themselves?

Should there be a uniform, minimum level of income and services, below which no American citizen should be permitted to fall?

What responsibilities do recipients of public assistance owe to society at large?

Can states be trusted to administer devolved programs, given their dramatic advances in state institutional capacity, revenue-raising ability, and fairness in electoral participation?

And finally, in a period of retrenchment and record federal deficits, how can we afford to meet competing demands for services in a fiscally responsible manner?

No issues could be more appropriate for our discussion as we stand on the verge of the 100th Congress and prepare to celebrate the bicentennial of our Constitution. But our interest in comprehensive federalism reform is not an intellectual exercise prompted by mere historical curiosity. Three very real and contemporary problems have combined to place these fundamental issues of governance on the forefront of our national policy agenda.

The first is welfare reform: If 1986 was the year of tax reform, 1987 will likely be the year of welfare reform. As the extremes of family income grow wider in our society, the paradox of poverty in the midst of plenty grows more acute. As the so-called "underclass" grows and seemingly resists more than two decades of antipoverty programs, the calls mount for a redefinition of society's obligations to the poor—and also redefining the responsibilities of individuals and families to society as a whole. For all of these reasons, the President has indicated that welfare reform may become an important item on his agenda next year, and this hearing demonstrates that welfare reform will be a major item on the congressional agenda.

The second stimulus for this hearing is a set of longstanding problems in our system of cooperative federalism that demand comprehensive reform: Despite all the budget cuts and block grants, there has been no systematic sorting out of federal, state, and local responsibilities since 1980, when the ACIR concluded that our intergovernmental relations had become both "less" and "more." Less manageable, less effective, and less accountable . . . but more costly, more pervasive, and more intrusive. The intergovernmental aid system remains overloaded, over-regulated, and overly complex.

This intergovernmental confusion has been increased rather than reduced by the third factor shaping federalism today—fiscal retrenchment: During the past six years, we have indeed begun to reshape our federal aid system. Since 1980, federal aid adjusted for inflation is down 24 percent—with virtually no area untouched. In health services, real spending is down 14 percent. Child nutrition grants are down another 14 percent. Mass transit—down 19 percent. Economic development—down 39 percent. Social services—down 25 percent. Training and employment—down 69 percent. In short, we in Washington have been busy restructuring fiscal federalism; but we have been doing it almost by accident, without rhyme or reason, without any set of guiding principles.

Except for cuts and a few block grants created back in 1981, most programs remain unchanged. EDA and UDAG are still there. So is CDBG, Family Planning grants, the Community Services Block Grant, Impact aid, mass transit grants, and the Job Corps. The programs are still there, but each year we whittle off 10 percent here and 20 percent there—or we just freeze their budgets and let inflation do the cutting for us. All the while, these programs become worth less and less, the deficit continues to mount, and we do nothing to establish a sense of national priorities.

The problem is not the programs. Each of them has value. The problem has been our unwillingness to make hard choices. By trying to still do everything we did in the past, though we can no longer afford it, we risk doing nothing well. And we risk ignoring new problems or trying new approaches simply because they are not locked into today's budget.

That is why we are here today. Because the need for welfare reform, intergovernmental management, and fiscal retrenchment demand that we reexamine federal, state, and local roles in delivering governmental services, and that we do it in a principled way.

The last time we addressed the issue of sorting out responsibilities in a serious way—back in 1982—I identified three sets of principles that I believe can help define the scope of legitimate national purposes and thus help us make the difficult choices we face.

The first set of principles are constitutional in nature. They have helped us assign responsibilities in our federal system since 1787; and because they are embodied in our founding document, they continue to shape our policies today. By virtue of the Constitution, the national government has the responsibility: One, to secure the individual rights and liberties guaranteed to all Americans; two, to defend American interests and conduct foreign relations in the community of nations; and three, to promote economic growth and regulate interstate commerce.

Over the past 200 years, these broad constitutional dictates have been reinforced by a set of five time-tested administrative principles which enhance efficiency and effectiveness in the conduct of government. These principles address problems that are widely experienced and cannot be easily resolved by state and local action. Thus, the national government has a responsibility to address problems where:

Significant savings can be realized by operating a central program, as in research and development;

Where states cannot be effective by operating alone, as with combating organized crime;

Where benefits spill over to citizens of other states, as in protecting wilderness areas;

Where single states encounter extraordinary costs beyond their means, as in disaster relief and refugee assistance; and finally,

Where competition among the states prevents them from acting in the public good, as in regulating minimum wages and hours and insuring against unemployment.

Finally, there are two principles of fairness that reflect the needs of a changing America as we approach the twenty-first century. These are principles that, while acknowledging the degree to which we remain a diverse nation, reflect the greater sense of national community that has evolved over the past 50 years. These principles of national fairness establish, first, that the national government has a responsibility to provide for the income security of all Americans. This includes the regulation of banking and pensions for the employed; social insurance for the retired, sick, and unemployed; and income maintenance for the poor.

The second principle of fairness recognizes a national responsibility to ease disparities in fiscal capacity among states and communities. This is the public-sector counterpart of the principle above. Just as the principle of income security establishes a safety net of private goods—food, housing, medical care—so the narrowing of fiscal disparities establishes a safety net of public goods, to provide a minimum level of basic public services in those states and communities that simply lack the tax base to provide these services alone.

Above all, it is these two national responsibilities—to fill the gaps in our system of income security and to reduce fiscal disparities—that the legislation we will introduce seeks to address. It is these two principles of national community which create a solid foundation on which a true "responsible federalism" can be built.

The legislation before us is only a beginning, not the final word. As we take up this debate in the 100th Congress, let us be guided toward "forming a more perfect Union" by embracing fairness across our national community, building on the firm foundation of constitutional principles and administrative practices that have sustained us for 200 years.

As part of that dialogue, we will be hearing about areas of difference as well as agreement today. That is all to the good. But about one thing I am certain all the witnesses agree, despite their diversity: We all agree that the time for fundamental change has come, and that this proposal is pointed in the right direction.

TESTIMONY OF HON. WILLIAM V. ROTH, JR., U.S. SENATOR FROM THE STATE OF DELAWARE

Senator ROTH. Dave, first let me congratulate you for beginning these hearings on a matter that I think is of critical importance, something that must be addressed. I was very pleased a couple of weeks ago to participate in a panel discussion on this very issue during the 350th anniversary of Harvard. This is relevant, and it is important.

I think that we are very fortunate to have as our leadoff witness, and let me thank you for making arrangements for Governor Castle to be first. I understand that Senator Evans and others were going to appear, and we appreciate making the adjustment because Governor Castle has an appointment at the White House.

In any event, I think we are fortunate to have Governor Castle here. He has only been Governor 2 years, but he has demonstrated real leadership. Our State has continued to prosper. Unemployment has continued to decline. But the reason that I am so pleased to have him here is that he brings a wealth of experience and background to this problem of federalism.

Although he is still a relatively young man, he has 20 years of experience in government. Ten of those years, he served in the general assembly as the representative and senator of our largest city, the city of Wilmington, which is a typical urban area of the eastern coast. He served as Lieutenant Governor for 4 years, a role that he made into a real policymaker. He has been deputy attorney general. Then, of course, in the last 2 years he has been Governor. I think that this is the kind of experience that can provide some very meaningful testimony to you and the committee.

It is a great pleasure for me to introduce my good friend, Mike Castle.

Senator **Durenberger**. Mike, we welcome you. We understand that you are here on behalf of NGA, the National Governors' Association. I know that you chair its Human Resources Committee. We welcome you, and why don't you proceed with your testimony.

TESTIMONY OF HON. MICHAEL CASTLE, GOVERNOR, STATE OF DELAWARE [1]

Governor **Castle**. Thank you very much, Senator Durenberger.

Senator Roth, I might say that my youth is only comparable to Senator Roth and I growing older all the time.

Senator Evans, I am delighted that you are here. It is not in my comments, but I reread your "To Form a More Perfect Union" [2] 2 nights ago in preparation for this, and it is one of the most insightful pieces of work about government that I have seen in a long time, and I would like to congratulate you and Governor Robb for the outstanding work that you did in putting that together, because it really was a very meaningful situation.

I might point out, Senator Durenberger, you mentioned Delaware being one of the first colonies. We are very proud of the fact that we were the first State, and our bicentennial will be next year.

I am also proud of the fact that from December 7, 1787, I think until December 12, 1787, Delaware was the only State of the United States of America. So we like to think that we know something about federalism and State's rights, and what is going on there.

I am here in two capacities today. The first is as the chairman of the National Governors' Association Committee on Human Resources, as you indicated, and also a special committee that we have put together called Welfare Prevention Task Force, which is looking at welfare prevention, but also coincides with what you are doing here, and what they are doing, of course, in the White House. Second, of course, as the Governor of a State who is concerned about this issue.

In the first capacity, I will discuss where the collective Governors stand and where we are going. The written testimony, which I have submitted, addresses NGA's position on welfare reform, and its relationship to the balance of responsibility between the States and the Federal Government in further detail. I might say that it is somewhat different than what I will be talking to you about, which is a little more personal here today. In that capacity, I will share some views which are mine alone, but which probably represent the thinking of many of the Nation's Governors.

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[1] See p. 154. For Governor Castle's prepared statement.

[2] See p. 222.

A month ago, when the Governors held their meeting at Hilton Head, the Committee on Human Resources invited four experts on welfare reform to testify. Their names are probably not familiar to you. Dawn Lawson is from Worcester, MA; Lillie Harden is from North Little Rock, AR; Shelley Wilson is from St. Matthews, SC; and Rebecca Varella is from Wilmington, DE. Each of these four women was on welfare, each was supporting a child, each through her own determination and strength of character got off of welfare.

I would like to be able to tell you that the system made it possible for these four women to end their dependency on Government support, but that would be naive. They did it on their own, but they are exceptional people. They had the pride, the independence, and the self-respect to break out of the welfare cycle.

Becky Varella, Dawn Lawson, Shelley Wilson, and Lillie Harden got off welfare because they were uncompromising in the standards they set for themselves. Not surprisingly, they were equally uncompromising in how they would change the system. Each in her own way said the same thing: Put the people on welfare to work. They also said, and this is extremely important: Make it possible for them to work and to earn their own way—whether that means providing good day care for young children, or teaching skills that employers need.

I am not going to address the issue of pure workfare, other than to say that it is too simple a solution to a complex problem, nor will I dwell on the many ways that we can make it possible for those on welfare to break free, other than to say that there are many, many things that we can do and are doing in the States. Rather, I want to talk about the fundamental issue of responsibility, which after all is what we are talking about when we talk about federalism.

At the conclusion of the Governors' Annual Meeting at Hilton Head, Governor Clinton of Arkansas declared that the Association would focus its energies on complicated social issues facing this country, and in particular welfare. The Charlotte Observer was moved to editorialize on Governor Clinton's plan and the welfare system he proposed to change. They wrote:

> The present system has kept a lot of people from going hungry, and all Americans ought to be proud of that, but it hasn't broken the cycle of poverty, and it has created a culture of dependency that must be addressed without illusion by those who want to put today's poor children on track toward productive, satisfying lives. We still have to keep people from going hungry. We still have to make sure that they have clothing and shelter.

And like it or not, the responsibility for an undertaking of that magnitude of assuring a minimum standard of living for all Americans must reside with the Federal Government.

That idea may not sit well with those who want to reduce Federal spending, whatever the cost, but reducing government spending at one level only to increase it at another level of government does nothing to reduce the overall cost of government. Mandating responsibilities to the States without providing the resources to carry out those mandates imposes an enormous financial burden on some States, and demands unconscionable choices of others.

I am sure that everyone in this room would agree that we must begin to eliminate the reasons for welfare. We must break the cycle of poverty and wipe out the culture of dependency. Let me give you an example of what I mean, something that we are doing in Delaware, which we call "Focus on the First 60 months," because it is a comprehensive program which focuses on the problems that affect children up to the age of 5—problems like infant mortality, like medical care for pregnant women and infants, like inadequate nutrition, like abuse, poor family structure, learning problems.

There is nothing new about those issues, but the fact that we have pulled them together in a comprehensive way is new. This program is going to reduce welfare in Delaware, not today, not next year, but in the long run, because it is going to give kids a better start in school, a more supportive family structure, and a healthier start in life.

We are not really going to see the results until these kids graduate from high school instead of dropping out, get a job instead of going to prison or going on welfare, and live healthy lives rather than make tremendous demands on our health care system.

Multiply that program by a hundredfold, address the dropout problem, attack adult illiteracy, provide job training for the hard core unemployed. Teach the skills that will allow people to make the transition from welfare to a productive life, whether they are keypunch and shorthand, or filling out an application and learning to meet a schedule. I believe that the States are unique in their ability to accomplish this.

Since the NGA Task Force as established in January, we have begun developing a comprehensive strategy aimed at welfare prevention, drawn from the policies and initiatives already in place in the States. By November, when we will complete our interim report, we will have developed a blueprint for attacking the causes of welfare, one that the States can use to intervene effectively.

But what happens to this blueprint if some of the States must shoulder the burden for the cost of basic welfare entitlement programs? What proportion of our resources can we put into eliminating the causes of welfare, into prevention, if we must underwrite the existing welfare system. The answer is: None.

The approach we are talking about will cost money, but we are willing to spend State funds for prevention, because in the long run we can reduce the tremendous costs associated with failure to solve social problems, be they for long-term medical care or the tens of thousands of dollars it costs to house a prison inmate each year. Simply shift the burden to the States and there won't be any money for prevention, for training, for attacking the problems in the schools, for innovative new approaches.

I realize that what I am saying today may sound like just another variation on an old theme. The States want the Federal Government to balance its budget, but not to cut Federal funds flowing to the States. That is not what I am saying at all. I believe strongly that the States must share the responsibility for reduction of the Federal deficit, and in Delaware, we have set aside a substantial amount of State funds in the current budget so that we can absorb the costs associated with Gramm-Rudman-Hollings. We will live on a tighter budget.

What concerns me is that if we allow our decisions to be based purely on budgeting considerations, then we will not solve the terrible problem that welfare represents, and we will forever deny millions of Americans the opportunity that is their birthright. We will be perpetuating the cycle of poverty and strengthening the culture of dependency.

I am encouraged by the statement in the introduction to the Federalism Act of 1986 that calls for a responsible, achievable middle ground for the coming debate over welfare reform and family policy, because it leads me to believe that you recognize that the States view the welfare issue as a litmus test of federalism.

The essence of federalism is a sharing of responsibility, not avoiding it. Today, the most important contribution the Governors and their States can make to welfare reform or share the responsibility, if you will, is to continue this drive for a comprehensive approach toward prevention.

We are looking forward to working with you to improve the comprehensive and visionary federalism proposal being made here today. We know that working cooperatively, we can achieve our mutual goals.

Thank you, and I will be happy to answer any questions that you may have.

Senator **Durenberger**. Mike, thank you very much.

I have a series of questions, appropriately for the record, so that we can lay out, I think, principally where the National Governors' Association was in 1982, and where you are moving since then. We use these terms "swapping" and "sorting out," and all that sort of thing. In the 1982 debate, Dick Snelling, who was your chair in that period of time, and all of us who were involved in the process, I think, framed some of the principal elements.

I am curious, first, though, to know about the NGA's attitude, looking back now on 6 years, approximately, of fiscal federalism. We know that the NGA is for balancing the budget, and so forth. How do you view the basic approach that was suggested in that 1982 process, and is suggested again in the report from Senator Evans, Governor Robb, and that committee, that we consider greater national responsibility in the area of income security—and especially the income maintenance or welfare portion of income security—and less national responsibility in the area of what has come to be called infrastructure? And without detailing the implications of infrastructure devolution, sending back to the States the greater responsibilities for deciding where the highways and the bridges and the waterways are going to be, and the resources that we now have to pay for that?

Where, philosophically, are today's Governors of this Nation as compared to where they might have been back in the early 1980's?

Governor **Castle**. Let me say that the Governors are shifting philosophically at this point. This year NGA and Governor Clinton are looking at the whole welfare system, including economic development, all the way through to what we are talking about today, the heart of the welfare system.

We expect to have a new policy, which will include this strategic plans for ways of preventing welfare, and working people off of welfare, to really try to crack the dependency. The efforts are being made in the states. These workfare programs really do work. I have gone to them. I have seen them. They are there, and they work, and many Governors are talking about that.

There is a little bit of a different emphasis within the States of trying to solve the problem on a broad basis, all the way from medical care and pregnancy through all of education. So there are a number of philosophies that are coming into play here. In addition, we are trying to get ready for what the White House is doing, to be prepared to give what we believe should happen.

I think that the underlying philosophy that the Federal Government should continue the income dependency component still remains within the Governors. There is a vital concern, in Medicaid, AFDC, and those kinds of programs, that the States are really not in a position financially to assume those burdens, at least in full.

I personally believe that the States should have some income involvement in any program. Just to keep them honest, if you will, in terms of how they are managing their own finances, and how they run programs. I think the call will still be to continue the income maintenance in those particular areas. I think the further call may be, in a number of other areas, that a lot of this, perhaps, could be handled by block grants, by lessening of regulation, by letting the States make some of their own decisions. It may mean that the States might take some of that money and aim it more at the prevention programs, the workfare programs.

Workfare is a very simple word for a very complex system of social interaction, education, and ability to regulate your life and go to work, and do these things. I think you will see some calls for perhaps lessening those responsibilities.

I went through a qualifier for welfare about a month ago in a test case in Delaware, and it was very interesting. The man who interviewed me showed me two things. He showed me two books that are maintained of Federal regulations that he must go through to see about qualifications. Each book is about 4 or 5 inches thick. He happened to be knowledgeable, but if a new worker had been there, I am not sure that he could have understood all of those regulations or not. Then, of course, they constantly worry about error rates, and other things that are somewhat counterproductive in terms of getting money out, which is a difficult matter, not that that is not important.

The other thing was, which amazed me even more was a file he showed me which he said was relatively typical. That file was about 4 or 5 inches thick. I don't know how any one could really figure it out. All I got down to was AFDC, food stamps, and Medicaid, and that was the bottom line on that file, and yet it was that thick.

Of course, you have to avoid errors, and you have to avoid deception and fraud, but I have a hunch that we have gone a bit afield in terms of being a little too restrictive and perhaps a little too demanding.

I think the Governors' program will be to say, yes, we do need help in the income maintenance, there is no question about that. The other devolution questions will have to be resolved as well. Perhaps in some of the other areas, we could look more at block grants and go from there.

I am one who happens to believe in what you are doing in the Gramm-Rudman concept, at least in terms of reducing your expenditures. I think that you need to balance your budget, and I will be the first to encourage that. On the other hand, I also believe that when you are dealing with Medicaid, you must deal with pregnant women and your children, and those are new costs in some cases, and that is not easy. It puts me in sort of a counter-position situation, if you will, but I believe in those two things, and I think that we have to look elsewhere to reduce costs.

I think that you will see some shifting in how the Governors have come to you, but I still think that you are going to be asked to maintain the income responsibility in the major programs.

Senator **Durenberger**. Thank you very much. Let me now defer to my colleague from Washington State, Dan Evans.

Senator **Evans**. Thank you.

It is still a delight. I haven't been long enough away from State responsibility not to enjoy having a Governor appear, not only the responsibilities, but the ideas which we ought to listen to.

A couple of questions on where we are currently, and I would be curious as to your opinion. One of the fundamental problems, it seems to me, with the current requirements in a welfare program is the fact that in at least half of the States, we do not now have an AFDC Unemployed Parents Program. In those States there is almost a bonus, or in some cases, virtually a necessity for families to split up in order for them to be eligible for AFDC payments.

One of the things now being considered in this entire federalism proposal, and maybe it needs to be considered as well in isolation, is whether those unemployed parent programs ought to be uniform across the country, so that we do not have that sort of penalty that splits families up.

Governor **Castle**. I am not familier with NGA policy on this, so I will answer from a personal sense, Senator.

I agree with you, I think that also is counterproductive. Anything that will have in some way having families stay together and dependence on assets separated from each other, I think is a problem in our society.

To the extent that something of that nature can be done, so that it is financially a problem, and does not get into such regulation and restrictions that it becomes an additional burden, I think would be a step in the right direction. That is, to allow people who have children to stay together, to pool income, to manage resources together. I think that it would be a good step.

I think that if we, Governors, are asking you, the Federal Government, to assume the financial burden and for these things, you have the right to some degree to set some sort of tone of social policy. For that reason, I am included to support that concept.

Senator **Evans**. I would just say, in passing, that while this proposal on federalism does shift the burden, make it a fundamental fiscal responsibility at the Federal level, it very carefully retains the responsibility for management at the State level and the local level. I think that it is a terribly important part of this whole process.

I smiled to myself when you talked about the size of the books necessary for a welfare caseworker to operate. I remember vividly a series of meetings that the Vice President had, long enough ago so that the Vice President was Nelson Rockefeller. He came to various parts of the country, seeking out the problems of State and local governments.

I took to Los Angeles the very same books that are required in the State of Washington. I dropped down on the table, and the essence of my message was, Mr. Vice President, you can help us best by getting off our backs, and simplifying some of this process. I still think that that is a necessity. Perhaps by sorting out, we can move in that direction.

Rather than a question, I would offer an encouragement to the kinds of things you set forth in your written testimony as being the sort of new questions, or continuing questions that you are going to focus on in terms of our income security program. This includes the questions of social contracts between individuals and society, and the State and regional differences in costs.

I would hope that you do move in the direction of responding to the question, for instance, could we save money if we used a national formula into which States could plug their specific needs and numbers? I understand that you are working toward some answers to those questions at the end of the year, and in preparation for the February meeting. I will look forward with great interest to some of those answers because I think they are an essential ingredient in a successful program of the kind that we are talking about.

Governor **Castle**. Both of you know that there is a lot of variance in this country in terms of what is paid. You take the Federal dollars and then you spread them differently among the States. I am not sure that that isn't a bit of a problem. I think that there should be some differentials based on the cost of living, and the ability to tax, and what they have done to tax, I might add. All of this needs to be considered.

Again, you don't want to get it so structured that we spend all of our time worrying about it. Going back to what you said, Senator, about the books and regulations. It is very simple after you have worked in a place for a month to get used to that, and it is just part of what you do. But when you walk in fresh, as I did that day, and you see what they are going through and how that really does nothing about getting money to somebody who needs it, or a program to somebody who needs it, but it is just very bureaucratic, you realize that you have a problem that you must address.

I know that these things are not simple. I know that error rates as such are vital matters that we have to worry about. But it just seems to me that it can be simplified somehow.

The other thing that I can't stress enough, I really believe that if the Governors are doing anything that is fundamental, it is a real changing of the thought that we can do something with welfare in this country, that we really can address some of these problems. Some of the things I said in my oral statement today really relate to that, in terms of basic medical care, nutrition, early education, day care, and structures such as that.

For example, I talked to 19 people who went through a workfare program. They had gone through everything. They had gone through psychological examinations. They had been talked to about the social structure, how to get buses, just getting out of the neighborhoods and doing things they had never seen or done before. This was after they had been there about three months. They were learning work skills, education, or whatever it may be.

These people were absolutely enthralled by it. They were all mandated to do it, and they had all been on welfare for about 10 years or more. To a person, they said, this is the best thing that had ever happened to them. The most interesting thing was their children. For example, after they had gone through this, they all of a sudden wanted their children to do better in school. They now started to pay attention to that. Their peers, their relatives and the people in the neighborhood saw that they were doing this, and in some cases getting jobs, that makes a big impact.

I mean, you are going into areas where jobs are not the norm, where education is not the acceptable norm, and then all of a sudden it changes. I don't mean to be too idealistic, but I think a lot of us are really beginning to realize that these are individual human problems, and if we can deal with them at that level, we can do something about it.

I think that the big thrust by the Governors is, if you will give us the income to maintain these programs, we will make a commitment to make sure that prevention and working people off of welfare is going to take place in this country, and that is something that we should all take advantage of, I think.

Senator **Evans**. Isn't there a third element, and that is to try to give you the added flexibility and independence. After all, you understand the problems in Delaware a lot better than we are likely to. I don't pretend, as a Senator from Washington, to understand Delaware's particular problems. I think that if we could somehow rebuild some trust or faith between levels of government, particularly the trust of the Congress in the States and the local communities, we would go a long way toward the direction you are talking about.

Governor **Castle**. I think you are absolutely right. I guess that is the umbrella element in the whole thing. You need the flexibility in order to do that.

I really meant, I didn't just say it because you are here, to make you feel good, but that is a very good piece of writing. People really should pay attention. It is 28 pages before you get to the tables and appendices, and I think it is well worth everybody's studying, because it really sets forth some of the things that you are saying here.

Senator **Evans**. That was one thing that we started with in that whole process. Governor Robb and I said, we don't know yet what we are going to do, we don't know how long it will take, and we don't know what we are going to come out with, but we are going to write it in less than 40 pages.

Governor CASTLE. That is a good rule with everything we do. That is what we ought to do with those regulations, get them down to less than 40 pages.

Senator DURENBERGER. You trusted us to get you out of here on time, and I think we have. If you will come on up here, we will take a picture of the three of us, and then Senator Evans will switch places with you.

Thank you very much.

Governor CASTLE. Thank you.

Senator DURENBURGER. Our next witness is my colleague, Senator Dan Evans from the State of Washington. It has already been indicated that, along with Gov. Chuck Robb, Dan Evans spearheaded the Project on Federalism and National Purpose, on which I was privileged to serve as one of the members. He is also the chief Senate sponsor of the Federalism Reform Act of 1986.

Dan, thank you for being here.

TESTIMONY OF HON. DANIEL J. EVANS, U.S. SENATOR FROM THE STATE OF WASHINGTON[1]

Senator EVANS. Thank you very much, Mr. Chairman. I would ask that my full statement be included in the record.

Senator DURENBERGER. It will be.

Senator EVANS. I am going to begin by saying that in the efforts that we made during the last year-and-a-half in the committee that Chuck Robb and I cochaired, there were really two decisions.

One, to try to keep the final report under 40 pages, and written in clear English and understandable language. The other was to go beyond just writing a report. I think we all felt that we had an investment in the work that had been done, and that if we merely stopped with the report, put it up on a shelf, it might become nothing more than part of the National Archives.

Instead, we were able to secure funding from the Sloan Foundation in getting a team to translate the report into legislative proposals, and those legislative proposals are the subject which we want to talk about today. They will be introduced before this Congress adjourns, and I hope that they will become the centerpiece of what should be an important national debate during the 100th Congress, starting next January.

I should say also, expecially with Governor Castle's commendation of the report, that it is due in very large part to the hard work of Forrest Chisman, Steve Farber, Judy Golub, and many people, including Andy McLauchlan of my staff, and others who contributed to making this report a cohesive, easily read, and I think, complete report. They not only fulfilled the 40-page requirement, but they did it in 28.

We also, in the development of legislation, had an extraordinary amount of support from the National Association of the State Budget Officers, the National Governors' Association, your staff, Mr. Chairman, the staff of Congressman Downey. As a result, we are virtually ready now to propose to the Congress, and to the

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[1] See p. 161 for Senator Evens' prepared statement.

American people, the results of this report, "To Form a More Perfect Union."[1]

As a prelude to briefly discussing the report, let me just state that the committee began with the assessment of the existing Federal/State/local system. We found that today we have built a crazy quilt of irrational and illogical intergovernmental relationships. That, in turn, has helped to build a fundamental lack of trust between the various levels of government, and a lack of trust carries with it excessive regulation and penalty, rather than encouragement and enthusiasm.

It appears that Alexis de Toqueville, in his review of America more than 100 years ago, was not only correct, but his omen ought to be one that we listen to very carefully. He warned against the dire consequences of:

> Combining centralized government with that of centralized administration: Uniting the habit of executing its commands to the right of commanding; and establishing the general principles of government and descending to the details of their application * * * freedom would be banished from the New World.

I think we believe that pretty strongly, that it is time to sort out the relationships and the appropriate responsibilities of the Federal level of government, and of the States, and the local communities. It should relinquish control of responsibilities best carried out at regional, State, and local levels. Give up some of the pleasures of command, which the Congress and the administration have accrued to themselves over the last 50 years.

We believe, as a result, that more than 200 intergovernmental programs, funded by the Federal Government at less than $100 million each, could and should be consolidated into block grants, or absorbed into existing programs. And the remaining shared programs should be directed more toward the localities who are in the most need, and many of these should be abandoned altogether at the Federal level, and become responsibilities at the State and local level.

We ought to recognize several things at the beginning. First, true reform will take several years. We are not going to instantaneously, overnight, translate ourselves into a new regime. I think tax reform, did give us a new criterion, which is an important one. If you are going to engage in major shifts of authority and money, it ought to be revenue neutral, and that is one of the major elements we began with in the development of this proposal.

The first prong of the proposal would establish more uniform eligibility and benefits for Medicaid. Year 1 of our blueprint, we would extend coverage to all children 5 years of age and under, as well as pregnant women living in families with incomes below the poverty line. The Federal Government would pay 80 percent of the program costs for these two groups in year 1, and 90 percent thereafter.

In the second year, the medical component of Medicaid would be made more uniform and broader nationwide. For example, the 14 States that currently do not provide Medicaid to all SSI recipients should be required to do so, and the Federal Government would increase its reimbursement rate for State Medicaid costs by 2 percentage points, capping them ultimately at 90 percent of the Medicaid costs in each State.

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[1] See p. 222.

The gross disparity of AFDC benefits nationwide is a disgrace. To be hungry and poor in one State is not much different than being hungry and poor in another State. It is shameful that a poor family of four in this country can receive assistance five times as large in one State as in another.

We believe that these should be part of a national floor, or national safety net, but I recognize and endorse heartily the suggestion of Governor Castle that perhaps some formula should be devised that will allow us to recognize the true cost differentials in living in one State or locality to another.

The AFDC Unemployed Parent Program would be required in all States, this in order to eliminate an antifamily program or policy which has been allowed for far too long in this country. In addition, we offer a proposal for a strong work program for AFDC recipients.

I would welcome further ideas on this work program. Certainly the suggestions that Governor Castle brought to us are important ones, and they can help in creating what is ultimately the most important thing we can do, and that is to find ways to prevent welfare dependency; to find approriate ways to encourage and allow people to find effective work in our society. These employment requirements, and employment component of this whole program would begin 1 year prior to increasing the Federal role in AFDC.

The comprehensive solution to long-term care is probably at least a decaade away, but it is a critically important issue for the United States, with a population now growing older. Within the next decade, we will begin to increase sharply the number of citizens who retire, who qualify for many of our medical programs for the aged, and we still have not devised an adequate way to insure the necessary support for long-term care.

Specifically, in year 3 of this proposal, we would create a block grant based on current Federal contributions to long-term care. It would go a long way toward meeting some of the costs and care concerns generated by the current system.

This is the side of the program that would shift a substantial share of fiscal responsibility from the States and local communities to the Federal Government, to build a national safety net. Management of that system would be retained at the State and local level.

As we move ahead with this program, however, we will find out that some States simply have low tax capacity, and in spite of the Federal help with the AFDC and Medicaid Programs, they will still be unable to assume the full responsibilities of the devolved programs that will go back to them.

Thus, we have proposed a system of fiscal capacity grants, and those States with low capacity would receive grants that would help them provide an adequate level of public services. Certainly at the national level, it would be revenue neutral, but we want to make sure that at the State level, we do not find some States simply incapable of meeting their new responsibilities. There would be a parallel program of fiscal capacity grants to localities within

States which simply do not have the capacity fiscally to carry on their fiscal responsibility.

I believe, Mr. Chairman, your committee and your personal efforts are very important in building targeted fiscal assistance grants. S. 2037, which you introduced, provides a very good foundation on which we can build.

In exchange for the Federal Government's establishment of national benefit levels, and the concept of these fiscal capacity grants, this proposal would return responsibility for most local community development, infrastructure, and personal social services, to the States and local governments.

State and local governments would be allowed to replace Federal spending for programs with its own, which are more cost effective, which are more responsive to local priorities, and which meet more effectively the needs of their own citizens.

We have explored various options, and I am confident that this will be one of the most hotly discussed elements of this program—which programs should be devolved. There are many which have strong congressional adherence. They are popular programs. They have their own Washington, DC organizations who support them. It will be difficult indeed to reach agreement on a package large enough to match the Medicaid and AFDC responsibilities that the Federal Government will accept. But it is an important and integral part of this whole program.

In conclusion, Mr. Chairman, I believe that what we have produced or will produce shortly will be a working draft, but it will be a package of legislation on which a national program can be built. I hope it will provide the basis for a strong debate during the 100th Congress. There are diverse combinations of interests which have been put together to bring us this far. An even broader range of interests will be necessary for further deliberations and ultimate solutions.

Basically, then, what we suggest: A proposal that builds a national, uniform safety net for our citizens, funded primarily at the Federal level and managed at the State and local level. In exchange, an equal amount of Federal assistance would be returned to the States for their assumption and for their determination.

Fiscal capacity grants would be provided on a limited basis for States and for local communities within States to ensure that no one is caught short or left without the capacity, if they choose to do so, to meet the needs they have for their local citizens.

I can think of no better bicentennial birthday present, Mr. Chairman, for this Nation in 1987 than to celebrate the bicentennial of the Constitution by bringing us back to the original partnership our forefathers contemplated 200 years ago.

Senator **Durenberger**. Dan, thank you very much for that important contribution. I think all of us are aware that this is the beginning of a process. At the current time, beginning all of this is evolutionary, and we have all benefited from the experiences of the past. But we sort of need that excuse or that rationale, if you will, for doing something about the problems and the concern that has been expressed around this place for the deficit—which seems so far to have been the only deep concern—and a vote for Gramm-

Rudman-Hollings. Yet it is very difficult to translate that concern into a motivating force to change the way we do things.

I share with you the feeling that we can put a positive spin on changes to the way we spend money for public purposes—moving from "let's just cut spending" to changing the way we use our resources—both the public and the private sector. We can move away from just getting rid of things for the sake of balancing the budget, and use a positive approach, improving the way society responds to the needs that people have.

It is for that reason that, along with many others, I welcome your ability and flexibility, in 28 pages, to take a positive approach toward the opportunities that face us in the future.

I don't have any questions to ask you. We have a lot of other witnesses. But I certainly do appreciate the leadership that you have automatically shown in this area, and I think that you can be very comfortable as Governor and Senator. And in this case, you can be both at the same time, and we welcome your doing it. Thank you.

Senator EVANS. Thank you, Mr. Chairman.

One question that I failed to ask Governor Castle, but I am sure how he would answer it. The potential of a program like this, and especially in the devolution of many of the Federal, State, and local responsibilities, offer the opportunity at State and local levels for saving in management costs, and focusing more clearly on setting priorities in their own State. They not only will get a better result from the money they spend, but I am absolutely convinced, they will get a better result with the spending of less money because they will not be trapped under the inordinately large share of benefits going out into Federal, State, and local auditors, managers, and program functionaries. I sometime think that that is the largest welfare program we have in the country, and it is a pretty high priced one.

Senator DURENBERGER. Thank you very much.

As our next witness, we welcome our colleague from the House, Representative Tom Downey of the State of New York. Tom is a member of the Ways and Means Committee, a chief sponsor of federalism reform legislation in the House. We appreciate, Tom, your leadership in this area. Your full statement will be made part of the record, and you may proceed.

TESTIMONY OF HON. THOMAS DOWNEY, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK

Representative DOWNEY. Thank you for giving me this opportunity, Mr. Chairman.

We often engage in effusive and often insincere praise about one another's accomplishments. I don't want to do that, but let me just sincerely say to you and to Senator Evans that I congratulate you on the work that you have done and the leadership you have shown.

In the few weeks since we met, I have had an opportunity to discuss this with a number of my House colleagues—Congressman Sabo and Congressman Frenzel from your State, Congressman Gradison and others—we stand to hold up our share in the House in vigorously pursuing this matter. So it is with that very positive desire on their part and mine that I come to you today.

"The men," said British philosopher Alfred North Whitehead, "who founded your republic had an uncommonly clear grasp of the general ideas that they wanted to put in here, and then left the working out of the details to later interpreters." We, the elected representatives at all levels of government, are those later interpreters. It is a high calling. If we are to live up to the standards set by the Founding Fathers and Mothers, we must often take decisive action on complicated issues.

This is one of those times. We are in the midst of great change in the relationship between Federal, State, and local governments. We have the opportunity to take charge and shape our intergovernmental system in a way that best meets our present needs.

The problems we face are great. Poverty and joblessness persist, millions of American cannot read, and basic health care is out of reach of millions of our citizens. Only a fundamental and sweeping reformation of the Federal domestic budget will allow us to address these problems.

We must face facts. The Federal Government can only do so much. It is trying to do too much, as you pointed out in your opening statement, Mr. Chairman, it is not doing much of it very well. If we are to make the best use of Federal, State, and local resources, we must begin to rely on the States and localities to pick up the burden for many social service, community development and infrastructure programs while the Federal Government provides financing for basic income support programs. This is not only a more practical and more efficient use of government, it keeps faith with the philosophy of the American experiment.

Let's take a look at this historical consistency, if we can, for a second.

Under the framework of the Articles of Confederation, from 1781 to 1787, the Federal Government could not collect revenues directly from the people. Such a provision would have placed too much power in the unresponsive National Government, argued those who remembered well the tyranny of George III. But by 1787 there were few proponents of the articles left. They were unworkable, divisive, and created a power vacuum.

It was no accident that the new Constitution allowed the Federal Government to raise revenue directly from the people. Madison argued convincingly that a Federal Government without a reliable source of revenue would not be successful. The antifederalists argued that such power was a direct threat to the sovereignty of the States. Madison countered with a complex argument based on the philosophy of shared sovereignty, which is now the basis of our Federal system.

Today, the people of this country reap the rewards of the Founders' foresight. The Federal Government uses its revenue raising power to provide health care, retirement income, educational assistance, infrastructure preservation, and grants to State and local governments.

The concept of shared sovereignty has evolved throughout our history. The conventional wisdom of our recent past maintained that States and localities lacked the ability or political inclination to carry out essential government services. At the very least, said proponents of central authority, State and local governments needed regulatory "help" or a specific mandate from the Federal Government.

But many factors, including the civil rights movement of the 1950's and 1960's, the growth of intergovernmental grants and Federal mandates, the growth in revenue bases of State and local government and their willingness to use their taxing power, and the Federal deficit, have altered the balance between Federal, State, and local government.

As columnist David Broder, one of the more prescient observers of this trend, has written, "The initiative on education, social and most economic environmental issues now rests in State capitals rather than in the U.S. Capitol and the White House. That shift is what Reagan set out to accomplish 4 years ago, and the extent of his success, truly is revolutionary."

It is such "revolutions," such as the New Deal and the Great Society, that have in the past reshaped our Federal system. The Reagan Presidency presents us with similar opportunities. After all, who could have guessed in 1981 that this administration would embrace shifting a $120 billion tax burden onto big corporations, as we overwhelmingly did yesterday in the House.

This legislation offers the administration someting—a more efficient Federal system further removed from infrastructure, community development and social service programs in return for greater national uniformity in income support programs.

How should we realign our Federal system? Specifically, we should implement the recommendations of the bipartisan Committee on Federalism and National Purpose and devolve to States and localities shared programs that are best managed on a local level, establish more national uniformity in basic income support programs, put welfare recipients to work, and improve intergovernmental efficiency while providing for those States and localities who have a demonstrated lack of fiscal capacity, as Senator Evans so ably pointed out.

That is the heart of the legislation we are discussing today. This legislation will not be easy to implement. It is in many ways a jurisdictional jigsaw puzzle and it can certainly be improved. But its goals are so ambitious, the need so great, and the time so right, that adoption of some or all of these proposals is a genuine possibility.

Medicaid and AFDC burdens on our States and localities are staggering. The economic drain placed on society by chronic welfare recipients is great. Indeed, in Suffolk County, Long Island, the district I represent, we have the highest welfare payment in the United States. The specter of small children or senior citizens in need of unavailable medical care is a national disgrace.

This legislation will relieve States and localities of their Income Support Program burden. It will encourage States to train and employ those on welfare, and it will greatly increase the basic health care that so many of our citizens currently lack.

There will be those who say that the time isn't right, or you can't pass such an ambitious program or, or, or. Well, to quote a familiar phrase, "If not now, when? If not us, who?"

This legislation is not the last word. All options, suggestions, and alternatives are now on the table.

The administration is working on a proposal that addresses many of the same issues we are discussing here today. Reports indicate that a vast "cashing out" of various imcome support programs is in the works over at the White House. What will happen to national uniformity under the administration's plan? Will this be a genuine federalism proposal—a serious look at the burdens placed on Federal, State and local governments—or will it simply be an effort to consolidate and cut?

We cannot use a federalism cover to cut support for needed programs. State and local government leaders are justifiably wary about attempts to consolidate programs. The recent past indicates that consolidated programs become more appealing targets for those who wish to reduce Federal expenditures, not redefine the Federal system. Any sweeping federalism proposal must be fiscally neutral.

Our enormous Federal deficit makes prioritizing of Federal, State, and local responsibilities more important than ever. It is inevitable that some type of restructuring of the various burdens placed on the intergovermental system will take place.

Will this restructuring be planned and coherent or will we just continue to cut essential Federal programs by 2, 5, or 10 percent year after year? At what point does this become counterproductive? After 6 years of slashing and cutting, we have reached the time to rethink the role of the Federal Government and its State and local counterparts.

The work of the prestigious Committee on Federalism and National Purpose, chaired by Senator Evans and Governor Robb, offers us this unique opportunity. The legislation we have developed is a direct descendent from the committee's year-long effort. We certainly owe them a debt of gratitude.

I know that with the able assistance of the chairman of this subcommittee and Senator Evans, and with the strong coalition building in the House, we can make headway in our efforts to reshape the Federal system, lessen the burden on State and local government, put welfare recipients to work and provide better health care to the needy.

Certainly the work of recreating the Federal system requires no more political will or courage than the work of the Founding Fathers. They had the foresight and wisdom to create a system based on shared sovereignty. It is our task to move back to first principles. The 100th Congress and the 200th anniversary of the Constitution pesent us—the later interpreters of the Constitution—with a unique opportunity, and I am certain that we will not waste it.

Let me just add a brief addendum, Senator Durenberger. I have, as I pointed out sometimes ago to you and Senator Evans, been sentenced to the Budget Committee for 6 years. My term is happily drawing to an end. Over the period of time, I have seen, as you have, the whittling away of programs. To me, maintaining an ineffective lifeline to some programs is bad policy, it cost money, and deserves a careful reexamination.

The Ways and Means Committee has cleared from its agenda the major issue of tax reform. Hopefully, we will finish Superfund before this session ends. I am cautiously confident that Chairman Rostenkowski will allow large segments of our committee to spend the time and effort that will be necessary to work through some of the issues that have been raised here for AFDC. Congressman Waxman is equally interested in taking a very hard look at the Medicaid proposal.

We are going to hit the ground running when the 100th Congress begins in the House, and we look forward to your involvement and help.

Senator **Durenberger**. Tom, thank you very much, especially for taking the lead on this issue. The problem that you know better—because you serve with 534 people who have 2-year terms, rather than 99 who have the luxury of 6-year terms—is, in part, current reality and an institutional problem. The immediate institutional problems you just referred to when you added Henry Waxman to the list, and there are probably some that you haven't added. You haven't added the chairman of the Agriculture Committee, and a variety of other people.

I don't even know how disparate our approach is here in the Senate, even though we have fewer committees and subcommittees than you have. But I suppose the frustration that some of us have had on the Finance Committee in doing something with welfare reform is, in part, because we have the engine for it in AFDC. And we have one part of it in Medicaid, and obviously tax reform has something to do with it. But other important areas are over in Labor and Human Resources, or they are in Agriculture, or somewhere else.

I am in part curious about your reaction, looking at the House with your experience—they are looking at it through the eyes of reconciliation. How do you view the institutional problems as they apply here?

The second part of the institutional approach is the one that Dan Evans has referred to, and which we sometimes just call the iron triangle, that comes around cooperative federalism over the last 20 years. I, like others probably, glanced through the Washington Post this morning, looking for my name, and I didn't find it. Apparently, it was in the New York Times today, along with Jesse Helms'.

There is a little story here, that made it all the way to page A-10, by Spencer Rich, on Reagan's cutbacks and, of course, it is chronicled by one-third of the iron triangle: the Federal employees, and the State, county, and municipal employees, going through a list similar to the one that I went through in my opening comments.

Maybe not in this edition of the paper, but sometime earlier this week, or sometime next week, you might hear from the independent sector, regaling us with the problems of what the nonprofit sector has faced over the 6 years of the same sort of thing.

We are hearing from the delivery system, the institutional delivery system, saying that somehow or other, we have endangered the delivery of public services. It is not a pejorative description, but merely indicates that there are people out there who do have a stake in how we have gotten to where we are. They are important voices in the evolution that we hope to go through.

What is your general observation about how we might approach that, this institutional investment in these programs?

Representative DOWNEY. Mr. Chairman, first of all, you and I shared a common experience when we try to keep programs like mortgage revenue bonds alive, and other things like that. I think we had a very unhappy feeling that we were using the wrong tools to do the right things. I sense that there is the same skittishness, which I think we share here, about the idea that the Federal role has changed in a way that is profound and that we do not understand as a backdrop.

I think the States are more responsible than they were in the 1960's. The sort of racism and outrageous behavior you could come to expect in certain parts of our country no longer exists. That sets the stage for us. What are the institutional problems? It seems to me that we can approach this in two ways.

We can do it in a Stockmanesque approach, which I think has been repudiated, and that is this whole idea of a reconciliation process where you cram everything down people's throat, win it by one vote, and then have to fight a rear-guard action over the next few years. Clearly, we don't want to approach it that way.

In the House, we have many more power barons than you do. We have 160 important knights that chair subcommittees who are jealously guarding their particular jurisdiction, and will fight us unless we approach them properly. We face a more difficult problem especially, as you pointed out, because Ways and Means and Commerce share one of the most important levels of jurisdiction, where that resides simply in the Finance Committee in the Senate.

In 1978, Speaker O'Neill, at the request of President Carter, appointed two super committees to deal with the pressing problems of the time—energy and welfare reform. O'Neill put together all of the people who are players on Energy, and told them to show up with a bill and gave them a time table and a deadline, and they produced it. They passed it by one vote, I might add, on the final day of the session that year.

It seems to me that we are going to have to ask Speaker Wright to do the same thing if we are going to avoid some of those institutional pitfalls. We are going to have to ask him, and get the cooperation of Chairman Dingell and Chairman Rostenkowski to cut across jurisdictional lines and prevail upon the other subcommittee chairman to recognize their historic place in history with the 100th Congress, if we are to be successful. Otherwise, we are only going to enact parts of this, and while that is not bad, I don't think that evolutionary change frankly is really possible. It is much easier to conduct revolution than it is evolution. A broader sweeping attack on this problem, to me, seems to be the best way to move, bringing along all of the necessary troops and soldiers to begin with. We have started to do that.

I mentioned Congressman Sabo from your home State, who has a rich background in this, and is prepared to devote enormous time to it. We have the allies, but we have to make sure that we are prepared to face not only the institutional hurdles, but the extra institutional hurdles which you mention, who are our friends in the private community, who will produce studies and show us that what we are about to do will take the food from starving mothers, and wean children of necessary education.

We are not going to do that, that is clear. The statement of our goals and principles has been laid by Senator Evans and Governor Robb. If people have difficulty understanding that, we can always refer them to the 28 pages of literate and understandable prose. So our goals are clear. Our objectives are honest. The time is right. The only question is, Are the people going to be in place? and that only time will yield.

Senator **Durenberger**. Tom, thank you very much for your testimony. We appreciate it, and we appreciate your coming over.

Our first witness is Thomas Marchant III, a member of the South Carolina General Assembly, who represents the National Conference of State Legislatures. He has been active as the chairman of the Health and Human Resources Committee. He will give us the State legislator's point of view.

Our second witness is John Horsley, who is President of the National Association of Counties. John is the chairman of the Kitsap County, WA, Commission, and he is well acquainted with the legislation that we are offering today.

Gentlemen, your statements will be made part of the record. Tom, we will begin with you.

TESTIMONY OF THOMAS MARCHANT III, MEMBER OF THE SOUTH CAROLINA GENERAL ASSEMBLY

Mr. **Marchant**. Thank you very much, Mr. Chairman, and members of the Senate Subcommittee on Intergovernmental Relations.

I am Tom Marchant, a member of the South Carolina House of Representatives, and chairman of the Health and Human Resources Committee of the National Conference of State Legislatures, more commonly known as NCSL. I come from the congressional district of Carroll Campbell and the State of Senators Strom Thurmond and Fritz Hollings. It is on behalf of NCSL and the committee that I appear before you today.

The NCSL is the official representative of the States of the Nation's 7,461 State lawmakers and their staffs, and it is the only national legislative organization governed and funded directly by the States. Incidentally, we have excellent staff representation here in Washington.

The goal of welfare reform, in my view, is to afford the opportunity of self-sufficiency to as many individuals as possible and to, at the same time, retain a safety net for those individuals and households that, for whatever reasons, cannot provide for themselves.

It is equally important that the impact of welfare reform proposals on State and local governments be considered. We are particularly pleased with your efforts to discuss welfare reform in the context of federalism and the budget.

Consideration of major modifications in the public assistance system will force all of us, State, local and Federal policymakers, to take a very close look at the gamut of Federal assistance programs currently available to State and local governments.

It is clear that welfare reform cannot be adequately addressed without considering two things: One, who pays; two, what are the

State and the local grant programs that will be eliminated. This is the context in which welfare reform must be discussed.

NCSL policy calls for the consideration and consolidation of all existing income security programs into a replacement program that provides first, assistance to all needy households; second, encourages a minimum level of assistance equivalent to the Federal poverty line; third, discourages welfare dependency by providing for a strong employment and training component.

In addition, during the NCSL annual meeting in August, held in New Orleans, our Health and Human Resources Committee made welfare reform a priority issue. The committee is concerned about the lack of an adequate bridge between (1) education and job training and existing employment opportunities; (2) employment opportunity, necessary social and health care, and other support services.

It is imperative that educators, private-sector representatives, health-care providers, and Federal, State, and local policymakers work more closely together if our goal of reducing welfare dependency is to be realized.

Your welfare reform proposal addresses many of our concerns, providing for a minimum benefit level, a strong employment and training component, and funding for needed support services. We genuinely hope that your proposal moves from concept to legislation, and as it does, you will consider our needs for flexibility in this program design and administration. It is critical that States be permitted to phase in programs so that needed adjustments in administration and budget can be made.

Most households receive aid for families with dependent children for a relatively short period of time. However, approximately 25 percent of the AFDC caseload are long-term recipients. These households are most often headed by a young teen or adult mothers. Young women who have more than one child, while still a teen, seem to be particularly vulnerable.

It is clear that efforts to reduce the incidence of teen pregnancy must be pursued. In addition, efforts to ensure that young women that become pregnant continue their education, and must be a part of the program to foster self-sufficiency.

I personally believe that young mothers receiving AFDC—early intervention that provides for employment and training opportunities, basic education support, and support services such as child care, transportation assistance, and in some cases counseling—are crucial.

In addition to efforts targeted to recipients with limited work experience, we should continue to provide job search, skill development assistance to those recipients that need this kind of service.

In addition to providing expanding work, job training, and education opportunities, a properly managed and automated child support enforcement system, which recoups funds from the noncustodial parent, needs to be promoted. It is not, and I stress, it is not the responsibility of the taxpayer to contribute to the support of these children.

We hope that as welfare reform legislation is developed, Congress will recognize the creativity and innovation at the State and local level, and provide us with the needed flexibility to meet this challenge.

NCSL feels that the imposition of a national, mandatory work program that would ascribe to the State a detailed program will act against the ability of the States to perform satisfactorily since such a program is almost certain to fail to recognize special State and local conditions.

As Federal dollars to the State and local governments continue to shrink, employment and training efforts will also shrink unless States are afforded the flexibility to customize these programs to the needs of the citizens.

An issue of growing concern to the legislators nationwide is the provision of health care to the medically indigent. Recent State successes in containing health care costs have contributed by raising the visibility of this issue. In addition, employers are, by choice and by circumstance, becoming more prudent health care consumers, placing more stress on the system.

Finally, more people are working part time and in jobs providing limited or no health benefits. The Medicaid Program does not provide coverage to a majority of the poor. Approximately 30 million Americans have no health insurance coverage, a staggering figure. Data reveal that over 50 percent of the medically indigent are under age 25, and many are children.

Over the past few years, states have made an effort to address the indigent care problem by teaming with hospitals, local governments, and other health care providers, and by expanding their existing Medicaid Program to serve a broader segment of the poor. All too often, welfare reform discussions focus solely on employment and training issues, ignoring these health care concerns. Access to health care should be a central issue in the welfare reform debate.

I applaud your efforts to address some of these concerns in your proposal.

In South Carolina, we have been training welfare recipients to be health care providers through the Homemaker Health Aide Demonstration Program. Under this program, the South Carolina Department of Social Services contracts with local, private, nonprofit, and public agencies to hire trained aides to provide homemaker/health aide services. After 12 months of subsidized employment, every effort is made to move these trained, job-ready aides into private sector employment.

It is vitally important to note that under this demonstration program, participants do retain Medicaid eligibility. This is a critical consideration for mothers with young children. I personally believe that work programs like that hold promise for the future. Working together, much can be accomplished.

NCSL has a long-standing interest in and commitment to improving the effectiveness of the Nation's public assistance programs, and has played an integral role in the efforts in the past. NCSL looks forward to working with you, the President, and other Members of Congress on welfare reform in the coming months.

We appreciate genuinely the opportunity to appear before your committee today.

Senator DURENBERGER. Thank you very much, Tom. John.

TESTIMONY OF JOHN HORSLEY,[1] CHAIRMAN, KITSAP COUNTY, WA, BOARD OF COMMISSIONERS, PRESIDENT, NATIONAL ASSOCIATION OF COUNTIES

Mr. **Horsley**. Thank You very much, Mr. Chairman.

It is a pleasure for me to be here today representing the National Association of Counties. My name is John Horsley, and I am a county commissioner in Kitsap County, WA, which is just west of Seattle.

Mr. Chairman, 2 nights ago, I inadvertently spent a night in Bloomington, MN and it was enjoyable for the couple of hours that I had at the hotel there.

Senator **Durenberger**. You didn't get very far from the airport, I take it.

Mr. **Horsley**. No, not very far at all.

Mr. Chairman, let us commend your subcommittee for holding this hearing today, and Senator Evans for introducing this federalism initiative.

This spring, I read with great interest the Evans/Robb report, "To Form A More Perfect Union," and I was challenged and excited by the concepts portrayed there. We are pleased to see that Charles Gilchrist, the county executive in Montgomery County, MD, participated in the writing of that report. I think that some of the excellent results that came out of the Committee on Federalism and National Purpose deliberations were as a result of Mr. Gilchrist's, Governor Robb's, and the other outstanding group of Americans, on the Committee who thought through a very important issue.

As you are aware, NACo has always had a keen interest in the subject of federalism, and has appreciated your leadership, and the leadership of your committee. We have always considered you one of our closest friends in the Senate, and we are pleased that you are looking into this matter.

We, furthermore, want to commend Senator Evans, who has not only been our three-term Governor in our State, but whom we see as a real friend of county government now that he is in the Senate.

The initiative that he has launched here, we consider both thought provoking and timely. Our staff has put together some detailed testimony that addresses our national association's policy with regard to each of the concepts, which are contained in his initiative.

What I would like to do today is, off-the-cuff, address to you some of my more personal, and more pertinent concerns.

I said, in reaction to the proposal, that it was timely. I didn't realize, when I originally said it, that it would be on the morning after the final nail being put into the coffin of general revenue sharing. I have to revise that timeliness, and say this is no longer morning in America, as we were told in 1984, but as is becoming ever more clear, it is the morning after.

Senator **Durenberger**. To say nothing of the loss of the sales tax as it affects Washington State.

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[1] See p. 166 for Mr. Horsley's prepared statement with attachments.

Mr. **Horsley**. I think Congress will soon hear, especially from the heartland of America, from the oil patch, and from the timber patch, how painful the withdrawal of general revenue sharing is from our communities and from the cities and counties that will have to drastically curtail services and/or significantly increase local taxes.

I think that it is a shame that this has happened, but perhaps with the mounting deficits, and your attempts and frustration in dealing with them, it was inevitable that this important program finally hit the ax.

Frankly, one of the ideas that I thought about with interest as I was taking the Redeye flight last night, was the section in the Evans proposal that deals with fiscal capacity grants to localities.

I have provided you with a study that was was done in our State, which portrays the contrast in the fiscal capacity just among the 39 counties in Washington State. Our State Research Council did an analysis in 1985 of the 1982 time period, and found that the State average revenue per capita in our 39 counties was $582. My county, Kitsap, we rank 39th out of 39 counties: we take in $201 per capita to serve our citizens.

We are the fastest growing county in our State. We are rapidly urbanizing, and we have all the ills and woes of urbanization. We simply cannot get there from here, and that is just one county in America. There are hundreds, perhaps thousands, of others counties which need the fiscal capacity assistance to do what we need to do to serve our citizens. We commend Senator Evans for exploring that concept and putting it before the Congress.

There are two country and western songs that perhaps best describe the contrast between what has been going on under the Gramm-Rudman-Hollings approach to federalism, and the new Evans federalism proposal that the Senator has put forward. The first would be a song entitled, "Sliding Slowly Down the Razor Blade of Life."

Senator **Durenberger**. Did you make that up, or is it really a song?

Mr. **Horsley**. It is a song.

Senator **Durenberger**. "Sliding Slowly Down the Razor Blade of Life."

Mr. **Horsley**. You got it.

The second one, and I am not sure that counties and cities make out that much better under this proposal, is the old song I heard in Montana entitled, "She Got the Gold Mine, and I Got the Shaft."

Senator **Durenberger**. That one, I have heard.

Mr. **Horsley**. The devolution concept as proposed here, in the abstract, looks like it will indeed create some greater efficiencies through the process of sorting out. I can see why State legislators and Governors have great interest in being relieved of some of the financial burdens that they have to put into Medicaid and welfare.

As you can well understand, counties and cities are not sure that that is a good deal. The programs we provide, directly funded through community development block grants, waste water construction grants, mass transit grants, and you go right down the line on those programs slated for elimination in you proposal, are those that are to be taken away from us, in exchange for the Federal Government assuming a greater share of State welfare, Medicaid, and other social welfare costs.

A good deal, in our view, has to be a good deal for all three partners in the Federal partnership. At times there is a tendency here in the Congress to blur the distinction between State and local government. We shouldn't be lumped together because our taxing capacities and our flexibility are, indeed, different. We have some concerns as to whether this devolution concept as proposed in the bill is workable. I will leave it at that.

I wanted to offer one other thought that concerns me. My highest priority during this year that I will be president of our national association, is in looking to the long term at whether we are investing enough in the capital facilities our economy needs to expand and grow, and indeed compete with the rest of the world in a headlong rush of economic competition with America.

What I have seen is that since 1965 our national investment in infrastructure, our capital system, the nuts and bolts that make our economy work, has declined from 4.5 percent of our GNP to the point today where it is under 2 percent. What is proposed here, in general, if you look at it, is again a proposal that will have the Federal Government spend more on social welfare, but perhaps cause America, at all three levels of government, to spend less on the investments in the capital facilities I think our country does need to expand, grow, and compete.

It is a caution I throw out. We are, indeed, a three-tiered partnership that in the aggregate is struggling, despite your Federal deficits and the constraints that puts on all three levels of government, to put in place the systems and the capacity our country needs to meet the domestic needs of our people, to protect our national security, and to strengthen the ability of our economy to compete in the world. To skew the equation against one in favor of another one, to me is troubling.

The one thing I would say, to wind, up, is that we have invited Senator Evans, and we would like to invite Governor Robb, to meet with our national board of directors, when we meet in Miami. We previously had the privilege of having Senator Evans present his proposal and meet with us at our legislative meeting here in Washington, DC, in March 1986. We appreciated that participation.

This is the beginning of a dialog that must take place because it is as clear to us as it is to State legislators, the Governors, and to you here in Congress and the administration, that the current system is not working. It is also clear that it is not working as efficiently as our country can do. We can certainly put together a more efficient system.

The final thing that we are pleased by, if you are serious or if you have the intention of some of the rest of your colleagues, is the Federal fiscal neutrality of your proposal. We have indeed been sliding down this razor blade. If you take the logic of Gramm-Rudman-Hollings to its logical conclusion, 5 years from now there will be no domestic portion remaining in the Federal budget—it will be gone. There is only about $100 billion left to cut, and $180 billion out there that is outstanding, and this discussion may be moot 5 years from now if those trends continue.

Senator **Durenberger**. Gentlemen, thank you both very much.

As with the previous witnesses—maybe more so in your case, because you are not necessarily the targets, but the beneficiaries of devolution, having already benefited from the capacity building of cooperative federalism—we are going to have a lot of written questions that we would like you both to respond to on behalf of your associations. And, if you are willing, on your individual behalf from your experience.

I want to ask one question, before we get to our next witnesses, on the demise of general revenue sharing. John, as you pointed out, yesterday was the end of an era in revenue sharing. And yet, as you listen to people describe the big books of mandates, you have to believe that general revenue sharing—the sort of unmandated, uncategorical sharing of revenues collected less expensively and more fairly at a larger level of government—has to be the future for the financing of the delivery of public services at some lower level of government. Whether it is the Federal to State—and the State, then, merely passes through to local government—or whether it takes the shape of financing consumer services at some level as it goes down.

The realities are that those services today are being delivered at the local government level. And if we continue the devolution that is going on in our States, there is a counterpart devolution that is going on in the States of Washington and Minnesota on local governments.

My Republican legislature, last year, proudly gave back $1 billion in taxes. And this year, as everyone proudly assesses the impact of Federal income tax reform across this country, in income tax States in particular they will be giving back taxpayer dollars, not taking care of the unmet health needs of the elderly, disabled, chronically ill; mental health problems of people living in rural South Carolina, or rural Minnesota. Those are the temporary realities.

I always come up not looking very well when I say, "I told you so," and particulary to NACo, because this is the second time I have had to say, "I told you so." Once before was a couple or 3 years ago, when I suggested that we do a more targeted formularizing of revenue sharing, when we were doing the reauthorizing. And I got shot down on that.

This time, people were much nicer to me when I suggested that we replace general revenue sharing with targeted fiscal assistance. But they still didn't encourage me because of the hope of something like yesterday--a last-minute last gasp, where somebody goes on the floor, and somehow, by some miracle, against a $2.4 trillion national debt and $196 billion interest payment for this year alone, and a Gramm-Rudman-Hollings that we want to work, but can't make work. Somehow, by some miracle, we were going to give away $4.6 billion to State and local governments, without a means test to it. But yesterday the dream died. So we need now to get all of us back together again around some form of revenue sharing, it seems to me.

I have tried to sell targeted fiscal assistance on the same theory that a lot of people have been selling targeted fiscal assistance to poor people: Selling it in terms of targeted fiscal assistance to poor governments on this revolutionary theory; that at the bottom of this pile, there is a very poor county in a very poor State, trying to help newly pregnant, poor mothers with little education so that they don't have to spend $10,000, $20,000, or $30,000 saving the life of a newborn.

Mr. MARCHANT. Senator, from a personal standpoint, you are right. From a personal standpoint, revenue sharing needed to come to an end. We found ourselves building the revenue sharing into the base budget for the operation of governments all across the country, and that is not the purpose for which it was originally intended. It was to solve, usually, one-time problems as they occurred, and many entities built it into their base of operation, and it ballooned into something that was very unwieldy.

Senator DURENBERGER. It seems that the data tell us—and maybe Bob Greenstein can tell us otherwise—but the data seem to tell us that over the last 10 or 15 years, we have done a pretty good job of improving the targeting of assistance to poor people. We probably have a lot of poor who haven't benefited from some of these programs, but in targeting we have done a good job.

On AFDC, in 1972, only 50 percent of AFDC recipients in this country were below the poverty level. In 1984, it was up to 76 percent. On food stamps, we have done even better: from 77 percent in 1975, and the 1983 figures show that 92.6 percent of the people benefiting are below the poverty level.

Leaving aside the argument of whether we have put enough money in, or if we have helped enough people, the reality is that we have a tradition of being able to better target these people. And we ought to be able somehow to build on that tradition, particularly because we have this compelled partnership between State and local government. And we have counties who have practically all the responsibility that all the rest of us have: You do the roads, you do the social services, and you do a whole lot of other things.

In the spirit with which everyone here so far has testified in support of the Evans-Robb report, I hope that as we refine this legislative proposal, that concept of welfare reform can be translated into a partnership approach to help not only poor people, but the poor communities that have to deliver public services to these people.

Mr. HORSLEY. The timing of my being a witness here, again, the day after we lost revenue sharing, and 3 years ago, when I was a witness before you, I was the first county witness after we beat you on your version of general revenue sharing. At that time you may have been prophetic.

I have had the privilege since July of travelling all over this country. I visited about 11 of our States, many of them in the Midwest, and also I have been down to Texas, where they are grappling with the loss of revenue due to the oil slump. It is coming across clearer than ever before that we are a nation of 50 States, but there is great disparity between the capacity of a Mississippi, and a New York or a Delaware.

Along the coast from Washington, DC, north to New Hampshire, I don't think there is a State that has above 4-percent umemployment. The personal income is surging, and they have made the transition in their economies. This is what the Midwest needs, where agricultural land values have dropped. Iowa, as an example, values have slumped 59 percent. You can't provide county services if your property tax base has slumped that much. We need the wealth and the help of those States and localities, the strength of those economies, to help pick back up the economies where they are hurting, and getting them going again.

That is what has always been our tradition in this country, we pull together. Now it is becoming clear that it is no longer just the 50 of us fighting amongst each other. It is time to unite because the rest of the world is intruding upon our sphere as never before. I think that we have got to pull together.

On behalf of NACo, let me pledge our efforts to work with you to come forward with a very closely targeted system, since fiscal reality won't allow much more than a carefully targeted system of assistance to fiscal government. Let me again emphasize my concern that as compassionate as the proposal is that Senator Evans has made to spend more and more on social welfare programs, even targeted as you are suggesting, what I think we need to do most in this country is invest in the capacity building facilities that will allow the economic pie to expand. From the wealth created by a prosperous economy we will be able to fund and be compassionate in the social programs. But if we spend more first on social welfare to the detriment of some of these capacity building programs, we may not expand the economic pie, and we will have to tax our people more. I don't think that this is in the cards.

Senator DURENBERGER. Gentlemen, thank you very much. We appreciate your testimony, and we appreciate your being here. We look forward to working with you.

Our next distinguished panel consists of Richard Williamson, a senior partner with the Chicago law firm of Mayer, Brown & Platt. From 1981 to 1983, Rich served as Ronald Reagan's assistant for intergovernmental affairs, and in that capacity, he developed the President's federalism reform initiatives. He was also a member of the Committee on Federalism and National Purpose.

Together with Rich is Stuart Eizenstat, an attorney with Powell, Goldstein, Frazer & Murphy. Stu also served as assistant to President Carter, in his case for domestic affairs and policy. Stu was also a member of the Evans-Robb committee, and he was particularly active in helping to translate the recommendations of that committee into the legislation that we are discussing today, and which we hope to introduce sometime next week.

I will say parenthetically with regard to both of these witnesses, aside from being personal friends, they are sort of constant expert witnesses that this subcommittee has relied on very heavily over the last 6 years while I have been Chair, to keep us pointed in the right direction.

Gentlemen, your statements will be made part of the record. You may proceed in the order of introduction, unless you want to do it some other way.

Mr. WILLIAMSON. Mr. Chairman, would you like me to read an abbreviated version of it?

Senator DURENBERGER. I would be delighted to get an abbreviated version of it.

TESTIMONY OF RICHARD WILLIAMSON,[1] SENIOR PARTNER MAYER, BROWN & PLATT

Mr. WILLIAMSON. First, I do want to thank you and the members of the committee for holding the hearing, and I appreciate the chance to share my views with you.

There is a need for comprehensive reform. As we know, for nearly 50 years, there has been a dramatic change in the way the Federal Government has done business, and consequently how State and local governments have had to do a significant funding increase during this period. Many of the results were unintended, and some of them not constructive because there was not the type of effort for comprehensive analysis which is being suggested now by certain members of the committee.

It was clear by the late 1970's that our intergovernmental system was not working satisfactorily. The Federal Government was overloaded, having assumed more responsibility than it could manage. As set forth in the late 1970's by the Advisory Commission on Intergovernmental Relations' 10-volume study, "The Federal Role in the Federal System: The Dynamics of Growth," there was a crisis of confidence and competence in our federalist system.

The report identified four areas of particular concern: administrative failures, red tape, and tension between the layers of government; poor performance and inadequate results; excessive cost and waste; and lack of adequate control responsiveness to the political process. In sum, the system was overloaded, congested, and wasteful.

Further, there has been a breakdown in accountability between voters and those who decide how to spend tax dollars. Unfortunately, during the next few years where was no systematic, thoughtful, comprehensive reform of the Federal and State roles in the Federal system.

The existing problems became more acute, and a new troublesome emerged: the budget squeeze. By the last years of President Carter's administration, for the first time in decades, the Federal grants-in-aid to State and local governments did not increase in real dollars: they shrank.

President Reagan has sought, with mixed success, to implement some of the federalism reforms he has repeatedly outlined during the past decade. He has succeeded in getting unprecedented block grants passed by Congress and implemented.

President Reagan has also provided federalism reform through regulatory relief. He has sought to be mindful of federalism reform when dealing with the bursting Federal budget.

Last year, Federal aid to State and local govenments dropped for the seventh straight year as a percentage of State-local expenditures. It fell to State and local governments to raise taxes, to cut services, or to do both in order that revenues would match expenditures. Fiscal stringency in the Federal budget propelled decentralization. Dramatic devolution has happened in the form of Federal retrenchment and State-local ascendancy.

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[1] See p. 180 for Mr. Williamson's prepared statement.

Faced with sweeping new block grants, significant regulatory relief, and—most dramatically—the fiscal retrenchment in Washington, State and local governments have responded with robust leadership and innovation.

Twelve years ago, then National Governors' Conference Chairman Daniel Evans, today the distinguished Senator from the state of Washington, said:

> It is my judgment that when historians write of the fundamental changes that occurred in the Federal System during the last one-third of the 20th century, reaffirmation of the intended role of the States will be the characteristic most commonly noted.

Senator Evans was correct in 1974. Due to Federal fiscal austerity, block grants and regulatory relief, there is an enormous transformation occurring in our intergovernmental system. Perhaps too often the changes have been unintended, consequences of budgetary actions, rather than planned and reasoned results.

Overload, congestion, and waste remain in our Federal system. Dramatic fiscal dislocation is occurring because of necessary fiscal austerity in Washington. While some real federalism reforms have taken place, much remains to be done.

President Reagan presented a framework for comprehensive federalism reform in his 1982 State of Union Address. There followed many months of unprecedented negotiations by administration officals with State and local government leaders. Unfortunately, these efforts failed to find the necessary broad consensus to carry forward legislation on Capitol Hill. But the need is real, and the problems grow more acute. Some piecemeal progress has been made. However, to provide needed real federalism reform, a new comprehensive framework that balances the various interests and needs of the various levels of governments could prove invaluable.

Any articulation of principles for federalism reform must be grounded in an appreciation of the pivotal role federalism plays in our Republic.

Federalism fosters harmony, reduces Government to a manageable scale, and makes citizen participation more readily accessible.

Federalism promotes civic responsibility by fostering citizen participation. Federalism helps secure individual rights by providing multiple avenues of redress.

Federalism provides diversity and allows for local consideration in problem solving. States can learn from one another's experiments. Under a Federal framework, a problem solved in one manner at a given time and place may be solved differently in another period and setting. States and localities have flexibility to adjust for differing social customs, demographics, and climate.

Federalism fosters accountability because States and local officials are more accessible to the people. Federalism can be more efficient because responsibilities are sorted out, the National Government focusing on national problems, and State and local governments handling their own local problems. The system does not become overloaded and congested.

Working from this analysis of the pivotal role that federalism should play in our society, I suggest two guiding principles for federalism reform.

First, there should be a presumption that public service be provided by the unit of Government closest to the people. To the extent possible, the public officials that provide the services and benefits should raise the revenues to pay for those services. This fosters diversity, experimentation, broad civic participation, efficiency, and perhaps most critically, it would help provide accountability.

While this principle should be a "rebuttable presumption," it nonetheless is a starting point for policy analysis.

Second, one should be very wary of national standards. The political process inevitably ratchets up national standards to satisfy the worst case, the most expensive problem area. The result is excessive and wasteful spending in less severe cases and less expensive problem areas. This is a fiscal luxury that we ill afford today with our hemorrhaging Federal budget.

I was pleased to serve as a member of the Federalism and National Purpose Committee, ably cochaired by Senator Evans and Governor Robb. Both Senator Evans and Governor Robb have been serious students of and leading practitioners of our Federal system.

Also I wish to praise Steve Farber and Forrest Chisman who played key roles in staffing and coordinating the work of this committee. These four people provided steady and thoughtful leadership to the diverse membership of the committee.

I am pleased that Senators Evans and Durenberger plan to introduce legislation drafting the conceptual outline of the report. I am enthusiastic about some of these proposals; with others I am able to be in full accord.

The committee's robust recommendations on devolution are superb. The report reads:

> States and localities should assume full financial policy and administrative reponsibilities for many community development, local infrastructure and social service programs.

Without reviewing the particulars of each program that might be included in such comprehensive federalism reform, the thrust of such an initiative is consistent with the federalism principles I have outlined, and a sober recognition of Federal fiscal realities.

Senator DURENBERGER. Are you getting near the bottom of the page, or the presentation?

Mr. WILLIAMSON. I will be happy to stop now, Mr. Charman.

Senator DURENBERGER. Do you have a bang-up conclusion?

Mr. WILLIAMSON. No.

Senator DURENBERGER. Thank you very much, Rich.

Stu.

TESTIMONY OF STUART EIZENSTAT,[1] ATTORNEY, POWELL, GOLDSTEIN, FRAZER & MURPHY

Mr. EIZENSTAT. I appreicate very much your invitation to testify, and I likewise will summarize my written testimony.

I think that it is particularly appropriate that the bill which you intend to introduce is going to be considered during the 100th Congress and the 200th anniversary of the Constitution, because it focuses on the role of Federal, State, and local governments, and at the same time, it attempts to reform our welfare system, to increase independence, self-reliance, and reduce inequities.

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[1] See p. 199 for Mr. Eizenstat's prepared statement.

The Federal structure of our Government has been the backbone of our country. However, as you have recognized in your bill, Mr. Chairman, the responsibilities of the different levels of government failed to keep pace with the country's needs. We need to act now to correct that.

The Federal Government acts in areas where it doesn't perform well, such as economic regulation, or where States can do as well or better. There are too many overlapping Federal categorical programs, and too many illogical relations between the Federal, State, and local governments. At the same time, however, the Federal Government has failed to assume more complete responsibilities in other areas where State and local action is insufficient, such as programs to benefit low income Americans.

Our intergovernmental system has become part of the problem, and must change to confront new challenges. So, too, must our welfare system. It has failed its intended beneficiaries, and the taxpayers who support it.

The Reagan administration has made an ideological debate out of federalism because of its distrust of virtually any Federal action. This has had a polarizing effect on the debate on federalism.

I believe that the proper approach is one that you have taken, Senator Durenberger, namely, to determine in a practical way which level of government best delivers needed government services, and then to rearrange the delivery of services accordingly.

Our future must be based on a new division of labor. A new federalism built on more sharing of responsibilities. It is this division which lies at the heart of your proposed bill. It is a rational plan to sort out responsibilities. It is neither budget reduction in disguise, nor an attempt to irrationally withdraw responsibilities from one level, only to throw them onto other levels of government ill-equipped to assume those responsibilities.

It would not have been possible to have this legislation without the work, obviously, of yourself and your fine staff: Tim Conlan; Andy McLaughlin of Senator Evans' staff; John Ollinger, and Joe Feuerherd of Congressman Downey's office; but also of the bipartisan Committee on Federalism and National Purpose, which was chaired by Senator Evans and Governor Robb, which was inspired by Alan Pifer, Forrest Chisman, Steve Farber, and Judy Golub.

This committee was composed of a very diverse group of people with different philosophies and political views, and yet we were able to come together on a detailed set of recommendations to guide this reallocation of responsibilities. Many of these recommendations are found in your bill. Let me summarize the principles of the report.

They were, first, that the Federal Government should assume greater program and financial responsibility, when nationwide uniformity of policy, finance, or administration is important, when it is necessary to raise revenue from the Nation as a whole.

Second, States should assume responsibilities when resources and responsibilities must be distributed among localities, and when there is no overwhelming reason for the Federal Government to decide how they should be distributed.

Third, States and localities should assume responsibility when diversity of policy, finance, or administration is important; when solutions to problems should be tailored to different regions and localities; and when experimentation at the State and local level is important.

These principles drive the new division of labor we propose in our Federal system in this bill. Your bill would create more uniform eligibility standards on benefit levels for AFDC and Medicaid, along with greater Federal responsibility for these program costs.

Income security, Mr. Chairman, is a national responsibility. The marked disparities which exist due to the accident of a person's birth mock the essential unity of our Republic. This bill moves us, in our 200th year under the Constitution, toward a greater uniformity, while also increasing the number of eligible people on Medicaid.

It also mandates and funds State activities to encourage the employment of AFDC recipients. This is a critical part of your bill, Mr. Chairman, because it recognizes plainly and simply that poor people will remain poor without job opportunities, and it builds on the successful demonstration programs in California, Massachusetts, Maine, and Michigan. It is the essence of federalism, taking what works at the State level, and making a national responsibility out of it, with States having the opportunity to tailor it to their own needs.

It also provides block grants to States for the nonmedical components of long care, and it increases the Federal share of payments for these services, while allowing greater opportunities for the development of noninstitutional care alternatives. The problem of long-term care for the elderly, Mr. Chairman, is, as you recognize, a time bomb waiting to explode. Your proposal will help to diffuse it.

Your bill also narrows the gap in fiscal capacities of targeted States, and helps localities meet pressing needs. It recognizes that less affluent States and local jurisdictions will need particular assistance if they are to assume the additional burdens of the devolution of Federal responsibilities.

It also substantially reduces the number of intergovernmental programs, a rational devolution that places more responsibility on States and localities to determine their own priorities. I believe that States and localities are now much better able than in the past to assume responsibilities for community development, infrastructure, and many social service programs, which reflect the local needs and priorities.

In short, your bill offers what we so very badly need, a comprehensive program to restructure intergovernmental relations. Now is the time to enact such changes. Fiscal pressures make thoughtful evolution of the Federal system all the more important, otherwise these changes will be made under less rational means because of the duress of budget pressures.

In conclusion, this bill suggests a series of proposals which, when taken together, achieve a sweeping reordering of intergovernmental relations and a recasting of Federal domestic priorities. I emphasize that your proposal should be taken as a whole, Mr. Chairman, for selecting only one or several parts, and eliminating others, would skew and disrupt the current system, for little positive gain, and destroy the ground for consensus.

Your bill is not driven by an antagonism for Federal involvement in domestic affairs. It is not an attempt to destroy selected programs on any hit list. It does not ignore State and localities' differing needs and capabilities.

It is a rational division of responsibility between cooperating partners. It is one which will help us meet the present challenges. It is one, in short, which will reinvigorate our Federal system as we enter the 100th Congress under our Constitution.

Senator **Durenberger**. Stu, thank you very much.

Back in my early days on this subcommittee, we had a hearing here on special initiatives, and I suspect that you had something to do with them in President Carter's administration. In 1980, the President created a Commission to establish a national agenda for the 1980's, and one of the reports took a look at Federal aid to local governments, and concluded that Washington should get out of the business of sending aid to places and send it to people instead. One of the quotations goes as follows:

> The Federal Government should prepare to turn the leadership of substantial development over to the States and localities. It should commit itself to alleviating the distress of people directly wherever they may live in this Nation.

My question is, are these recommendations, in your personal opinion, still relevant? I think at the time they came under rather severe political attack. What is your view?

Mr. **Eizenstat**. I think that they are, and I think the best of those recommendations are found in your proposal. That Commission was also a bipartisan Commission. It had no political ax to grind. Indeed, it was created with the notion that it would help set an agenda for a second Carter administration, if there were to be one, but not to come out in an election year, and attempt to be part of the election debate.

I think that the concept of devolving community development, economic development, and infrastructure programs, which it indicates, is very much part and parcel of your proposed legislation.

Senator **Durenberger**. Rich, one of your reflections on the 1982 new federalism negotiation went something like this: "First and most importantly, we allowed ourselves, as an administration, to be trapped into an obsession over short-term budget considerations," and that is the end of the quotation.

To put that in context: As I recall, one of the principles we were dealing with in the negotiation at that time was revenue neutrality, which has been made more famous lately by tax reform. The fear was the same, that it is pretty hard to achieve revenue neutrality. The question, as I recall our discussion, was whether the proposal under consideration, the federalizing of Medicaid, for example, really was revenue neutral. Even if it was in the beginning, OMB would come along and start chopping at our half of the trade.

What is your current view, from the outside? The deficits have become larger, the budget is becoming the only thing we do around this place. What is your current view of the practicality of these things proposed by Evans, Robb, and all the rest of us who were on the same committee? Of the near-term success of these major rearrangements of the Federal system, when we are up against this very, very large budgetary problem?

We have a President who is committed to not raising any taxes. We have a Gramm-Rudman-Hollings commitment in effect. We have a very good, and very tough, OMB Director, who does not intend to leave until the President does in January 1989. Why should we even bother dealing with these recommendations, given the experience of 1982?

Mr. **Williamson**. I would say that if the same players were to come to the table with the same mind-set, it is a waste of time.

In 1982, one of the points that was repeatedly made in the negotiations that went on and on was whether or not certain units of government were to, like what was happening to the Federal budget, that there was a squeeze that was inevitable, and would continue. I believe there is an article today in the Washington Post that talks about State and locals of 14.9 percent over the past 6 years substantially more cuts than there had been by 1982.

In 1982, the representatives of State and local governments, and many Members of Congress, who were supportive of those programs and their expansion, rolled the dice, and they came up physically losers. I think that the pressure you correctly note is better recognized within the intergovernmental system and, therefore, the likelihood of reasoned deliberations is better.

I continue to feel personally that if you are in a situation where the physical squeeze that the intergovernmental system now has, it is going to be a lot better off, it is going to be a lot better off to try to give a rational framework to make decisions where money can go more effectively, as opposed to the piecemeal process today. Whether the fault lies at the other end of Pennsylvania Ave. or here, the net result is nonrefutable, and that is that it is an irrational patchwork quilt of budgeting and gimmicks by which no one is served.

Senator **Durenberger**. Stu.

Mr. **Eizenstat**. I would like to underscore what Rich has said because what will happen if this Federal system is looked at only under the microscope of budget pressures, we will end up making irrational decisions on where we cut. It will look simply at dollar signs, and not look, as you have in your bill, at where services can best be performed. This is the genius behind your proposal.

I think that there is one other thing that ought to be mentioned as well, and that is the opportunity for a grand compromise here. The liberal community, for many years, has attempted to achieve a greater uniformity in AFDC and Medicaid Programs with a greater assumption of responsibilities by the Federal Government on the theory that income support programs ought to be a national responsibility, and that we ought not to have the marked disparities that we have depending purely on where a person is born, or where he may live.

At the same time, the conservatives have long attempted to devolve whole series of programs to States and localities, feeling that the system at the Federal level was overly messy and overlapping.

This offers the opportunity for both to achieve their agendas, and I think this grand compromise is on the order of what we have done in tax reform, recognizing that now, perhaps, instead of doing incremental reforms, instead of doing things under pure budget pressures, let's really look at the system as a whole and see if we can't get both the liberal and the conservative communities each to look at the value of the other's argument, and achieve both at the same time.

Senator **DURENBERGER**. Gentlemen, I thank you very much for the time you have taken and the efforts that you put into the testimony today. We hope to have your services in the ongoing process of federalism reform. Thank you.

Our final panel consists of Bob Greenstein, Director of the Center on Budget and Policy Priorities. Bob served as Administrator for Food and Nutrition Services at USDA during the Carter administration, where he was responsible for the food assistance programs. And Paul O'Neill, who served as Deputy Director of the Office of Management and Budget under President Ford, and has held various other Government and consulting positions.

Our third panelist has the flu today, John Shannon,[1] the Executive Director of the Advisory Commission on Intergovernmental Relations. Each of you can add 2½ of John's minutes to your presentation today, and I will begin by thanking each of you for your ongoing commitment to this process, and thanking you in advance for all the help you are going to be to us in the coming years as we address these issues.

Your statements will be made part of the record, and we will proceed in the order you were introduced.

TESTIMONY OF ROBERT GREENSTEIN, DIRECTOR, CENTER ON BUDGET AND POLICY PRIORITIES

Mr **GREENSTEIN**. Thank you, Mr. Chairman. It is a pleasure to be here today. Also, I am honored to be on a panel with someone as distinguished as Paul O'Neill.

I would like to make two brief comments before I begin. First, one of the principal programs addressed by your bill, Mr. Chairman, is Medicaid, and I did want to take note and congratulate you on the farsighted Medicaid provisions that are in the Senate reconciliation bill which I and many other people believe are actually superior to those in the House reconciliation bill. I urge and encourage you to see to it that what comes out of conference next week in Medicaid is what you took into conference from the Senate. I congratulate you again on that.

Senator **DURENBERGER**. Thank you.

Mr. **GREENSTEIN**. I apologize that I don't have a formal prepared statement here. We have been a little bit buried under tax bill, reconciliation, and a major conference on employment and training that our Center just ran. But I have had the opportunity to study the specs for the legislation in some detail, and I have a number of comments on that.

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[1] See p. 212 for Mr. Shannon's prepared statement with attachments.

I would like to offer strong support for the general concept and framework of your bill. I do have some concerns or reservations about particulars, and some suggestions for particular improvements within the basic framework. The basic framework, I think, is outstanding.

It seems to me that the bill accomplishes several key things at the same time. It encourages self-sufficiency. It improves the treatment of the working poor. It improves the health status and living standards of some of America's poorest families and children. It improves the intergovernmental system.

It seems to me to look at how this affects low-income families, we would need to start by thinking briefly about where we are today. There is a certain amount of controversy over the impact of the current Federal assistance programs, but I think the evidence is clear that they have an important effect in raising income and living standards, and improving health and nutrition.

We hear some discussions of the programs possible corrosive effect. When we look at the evidence, what we find is basically the following: You have two basic groups of people who go on welfare. There are short termers and longer termers. About one-half of the people who ever go on welfare are off within 2 years. Only one-sixth are on 8 years or more, but that one-sixth who are half of the people in the program at any point in time and half the cost, are a major concern. How does the current system deal with them?

For the short-term people, the system helps them through a rough period until they get back on their feet. It does not have corrosive effects or promote long-term dependency, as witnessed by the fact that they leave the system very quickly. The major problem for those people is the inadequacies and the holes in the safety net, and the fact that when you go back to work, you can be made worse off by virtue of losing health care, and not having child care.

For the long termers, the evidence does not support claims that welfare itself promotes illegitimacy, or dramatically reduces work effort. However, neither does the current system provide a ladder out of poverty. It is a safety net, but not a ladder out. It does not address the problem—even if it doesn't cause it, the existing system does not address the problem of longer term dependency.

We also have a significant issue with the working poor. We ought to be improving the lot of the working poor. They ought to be role models and heroes in their community. Instead, they are the group that we have increasingly disadvantaged in recent years.

What we need to do is to address these issues with the working poor first by making Medicaid available to women and children in working poor families. Your bill does that. We need to make the benefits more adequate, particularly for the short-term recipients. Your bill does that through an AFDC minimum benefit, and AFDC UP mandate. We need to concentrate more employment and training resources on the long-term recipients who need help in breaking barriers to employment. Your bill does that as well.

Finally, there is the issue of Federal and State roles. You and I discussed last year at some length, Mr. Chairman, the issue of a proposal at that point to turn the Food Stamp Program into a block grant. I think we both felt that in AFDC, food stamps, and Medicaid, it makes no sense to have a fixed block grant, with no entitlement to the individual. States don't have enough money when the economy goes down in their State. They can't adjust in time for demographic changes or employment changes. Often, the elderly may do OK, but women and children lose under changing Federal programs to block grants.

I think the administration, unfortunately, is once again moving in precisely the wrong direction on this front, exploring State demonstrations for megablock grants through a foot in the door to the same place they were going in 1982—reducing the Federal role precisely in the areas that we ought to be increasing.

Your bill, I think, sorts out precisely right on what is a Federal responsiblity and what is not. Having said that, let me address a few concerns and ways I think they might be addressed.

I am concerned that the 62 percent of the Federal poverty threshold for AFDC and food stamps combined as a benefit floor is rather low. While the bill states that this raises benefits in 34 States, in many of these States, it raises benefits for only a very small fraction of people and certain family sizes.

I realize the fiscal limitations in going above the 62 percent through 1994. What I would hope is that it would be stated as a goal in your legislation to continue the 2-percent per year increase after 1994, so that eventually we can get in the 70- to 90-percent range that the Committee on Federalism and National Purpose recommended.

Second, if I understand the particulars correctly, there is not a prohibition in the bill against States that are above the minimum benefit level cutting their AFDC payments in order to help finance the enlarged Medicaid expense. I think that it is critical that if you decouple Medicaid from AFDC, as I think we must, then we need some provisions—I think you have some of these in the reconciliation bill—to prevent States from simply cutting AFDC. We don't want them to cut it back down to 62 percent.

These first two things that I have mentioned have no cost through 1994.

In the area of Medicaid, you cover children and women up to 100 percent of poverty, but not necessarily the elderly up to 100 percent of poverty. I think that it would be useful if we could, and in a minute I will suggest a way to pay for that.

In the employment and training program, I think that it is particularly important to design your performance standards in such a way that push or urge States to concentrate resources on the harder to employ, rather than spreading them thinner over people who would find jobs on their own anyway.

Finally, and this is my major area of concern, within the devolution area, I have two particular concerns.

One in relation to the social services block grant: The component of that which concerns me about devolution is the part of that program that goes for day care for nonwelfare mothers. The specs on the bill describe that we have employment and training programs and other services that may obviate the need for funding day care through the SSBG for welfare mothers.

What about the working poor mothers who are not on welfare, and who don't want to go into welfare? I have some concern about how States will address that. It was one of the program areas that has been cut in recent years at the State level as SSBG has been squeezed at the Federal level. Were you able to find the money in the bill, I would suggest some consideration of a possible federally funded block grant for day care, which would be much smaller than SSBG, but something to look at nonetheless. Child care is a major part of the working poor issue that we need to address, and I would hate to see us withdraw support in the working poor area for child care.

My biggest concern of all, however, is the low-income housing area. Let me mention a few statistics.

The latest census data show that 50 percent of all renter households in the United States with income below $7,000 a year now pay at least 60 percent of their income on rent and utilities. That is astounding. About 80 percent with incomes under $7,000 a year pay at least 35 percent of their income on rent and utilities, and it is getting worse.

The GAO reports that the number of low-income renter households paying more than half of their income for rent and utilities was 3.7 million in 1975, and it was 6.3 million in 1983. As you know, many people feel that the rents will go up further after the tax bill.

It is the one thing that scares me about the bill. I can see States picking up most of the social services. I am not troubled on devolving UDAG and EDA, and a number of the others. But I am scared about the low-income programs. I am scared about States and localities not picking them up. I am scared about people having higher rent burdens that wipe out what we would be doing for them in AFDC and Medicaid.

I would also note a new National League of Cities survey. They are about to release a survey of 444 cities. I cannot find the numbers here, but a very large majority of those surveyed felt that if Federal funding for low-income housing was terminated, it would not be replaced by the city, State, or the private sector.

In the specs it is noted that many different devolution plans could be developed. I would urge you to look and see if there might be some other places to get some money to devolve outside of the low-income housing area. Recognizing that there are many problems with our current Federal housing programs, I would rather see us try to improve those housing programs, if we can find a better way to do it, than run the risk of ending much involvement in housing at any level.

One way that you might help a little on that, and conceivably reduce a little of the cost in your bill, is that when you cover women and children up to the poverty line in Medicaid, you do what we do in food stamps. In food stamps we cover everybody up to 130 percent of poverty, and we have an assets test.

We have found, amazingly enough, that there is a significant number of people with incomes below the poverty line who have either paper losses or a single bad business year or farm year, who have a lot of assets. I am not that troubled about not having Medicaid for those people. Although it is a little more complex to administer, we have found in food stamps that something like one-quarter of the people who were income eligible were screened out by the assets.

I think that the asset test is too severe in AFDC, but something more like food stamps or SSI might reduce your Medicaid costs, enable you to cover the elderly up to 100 percent under Medicaid, maybe ease the pressures on just how much you have to devolve, and deals with my particular concern on housing.

The final point I would have is in regard to the question that you asked Rich Williamson and Stu. Let's be frank and candid. I think that this is like the tax bill in some way. Sure it is a grand compromise, but with a great big difference; I don't see this White House going through the rules that you have outlined here, and their involvement was critical on the tax bill. It is not likely that this is going to pass for the next few years while this administration is in office.

What do I think we should make of that? I think that we should all keep at it. I think you, Senator Evans, Governor Robb, and Congressman Downey should keep at it. This is a major change that isn't put through in a year or two. This is something that we are going to need to work toward. We should build the kind of bipartisan package and support that either a Republican or a Democratic administration coming in in 1989 could go for.

In my mind this is a 2 to 3 year effort, and we will be spending the next 2 years building the framework for this. Your introducing the bill at this point is critical, helpful, and important, but I hope that none of us become discouraged simply if it looks like it can't passed in the next Congress. It is too important to give up on, even if it can't get through in the next 2 years.

Thank you.

Senator **Durenberger**. Bob, thank you very much for, among other things, your tenacity.

Paul.

TESTIMONY OF PAUL O'NEILL, PRESIDENT, INTERNATIONAL PAPER CO.

Mr. **O'Neill**. Mr. Chairman, it is a pleasure to respond to your invitation to be here on this important subject. I must say, on a personal note, I have a sense of deja vu in two regards.

First, my own involvement in these subjects goes back to the late 1960's, including the involvement with the formulation of the ill-fated Family Assistance Program, and the so-called special revenue sharing block grant proposals, which failed in enactment.

A second sense of deja vu, the last time I appeared in this room was for a confirmation hearing as Deputy Director of the Office of Mangement and Budget at a time when it was still possible, in my judgment, to solve the budget deficit problem, without a national calamity.

Turning to the questions that you have asked that we address, I would say there is no doubt today, and there was no doubt in 1969, that we had a need and have a need for comprehensive reform of the Federal and State role, and the Federal system. I agree almost completely with the principles that you have enunciated to guide this process.

With your permission, I will put in the record something I wrote 7 or 8 years ago, trying to sum up 15 years of involvement in the

Federal Government, which speaks to these same principles. I commend you and your associates for putting the principles first in trying to decide what should be done.

On the conceptual outline, I have a large degree of agreement with what you propose. I do have two reservations. It is not so clear to me, except in a narrow political sense, that you should provide in this legislation for smoothing fiscal assistance to States and local governments on the proposition that somehow the Federal Government has a responsibility for dealing with fiscal needs of subjurisdictions.

In saying that, I note that it has only been in the last 25 years that we have created a government of so-called alphabet soup programs. Some of the things that people are clamoring as necessities did not exist until 25 years ago. I would leave you with this question. How did we manage to achieve all that we did between 1976 and 1961 without all the alphabet soup programs?

The other reservation that I have about the outline that you propose is with regard to the idea of separating and dealing differently with long-term care.

It is difficult to understand why our approach to dealing with long-term care should not be incorporated within our SSI Program, or perhaps some expanded concept of SSI, rather than following the institutional approach that we have been for the last 10 or 15 years.

Noting that oftentimes where we go in a policy sense is shaped by the words we use, I suggest to you that it is time for some new terms. My view is, as we talk about welfare and welfare reform, immediately we raise stigma of helping nondeserving people.

Perhaps it is the time, in concert with your principles, that we recharacterize what we are doing as survival assistance. We should talk about accepting a Federal responsibility for survival assistance, for people who need our help.

Finally, with regard to the question you have asked about the prospect for this kind of reform during the 100th Congress.

Mr. O'Neill. I might say that is is a great pleasure for me also to appear with Bob, who is a well-known expert in these areas—I go back to my introductory remarks, having remembered being here in 1969, and trying to accomplish some of these things.

It is not clear that we have reached the level of political maturity that we can deal with these subject in the principled way that you and your colleagues have suggested, although I would not want to leave the impression that I think you should not try with diligence, with tenacity, try as hard as you can to accomplish these things.

I remember writing a sentence for President Nixon's Message to the Congress in 1969 that said "every day that goes by is a continuation of what we have, it is a continuing day of tragedy for the people who are affected by these programs." I think the sense of urgency indicated in that statement is still there today, and it is a sad commentary that 17 years later we still have not reformed the programs.

Thank you, Senator.

Senator Durenberger. Thank you, Paul, very much.

I want to ask both of your questions to deal with what might be the predictable coming from the administration on welfare reform, and that is the issue of block grants. Maybe that mischaracterizes it, and that is why I want to ask you the question. You and Pat Moynihan spent a whole lot of time on welfare reform.

We have had recommendations, as Bob indicated, for blocking food stamps. They talk about blocking AFDC; and we don't know whether we are going to get a whole welfare block recommendation, and let somebody else make the decision.

Am I missing something when I can't find a good principle behind that recommendation? Or is it just that I don't believe in the principle that I think is there? Is there something good, on principle, about a block approach?

Mr. O'NEILL. I reason to your question in this way, Senator. I believe that we, as a nation, have a responsibility to make sure that our less fortunate citizens don't fall below a level of assistance that we in our most compassionate moments feel for them. I believe it the responsibility of the Congress to decide how we monetize that compassion. Furthermore, having monetize the level of compassion, it is not discretionary as to whether or not the individuals that are the targets of that compassion receive the assistance.

I have a lot of trouble with the idea that we would first formulate the amount of money that we feel in our hearts we should provide to the less fortunate, and then level it to someone else to decide whether or not they actually receive the amounts of money that we have collected from all of the people and said that they should have.

At the same time, I have a lot of reservations, let me differ for a moment with Bob, that we should get deeply involved in targeted assistance in the sense of housing assistance, and other categorical forms, because I don't frankly think we know enough at the level of our U.S. Congress to make the discrete decisions that need to be made.

So I would like to separate the amounts of money that we need to give to people directly for their own income assistance. One area where I would have a somewhat different approach is with regard to medical care because it is not a uniform demand. It occurs in a lumpy way with respect to an individual's own health needs. I can see a system that reimburses on behalf of low-income individuals for medical care as we do now. For most of the rest, I would urge that we give low income people cash.

Senator DURENBERGER. I am going to let you respond in a minute, Bob, but I want to clarify the last part of that because that is the corollary. We sort of went through this when Bob and I were talking about the administration's proposal on food stamps.

Food stamps looks like one of those things where you can set up a voucher, in effect, for folks, and they ought to be able to figure out how to spend it. Our concern was that if you block the money, you wouldn't know how you were going to access people to the food.

My current fetish on health care, of course, is that I think we could provide a dollar amount to people who would buy health plans. Yet, if I look at the market out there, I will find some communities in which you could move very quickly; because they have already been working on doing the same thing we are now doing for the Medicare eligible. Working at the social service department level, you can buy an indigent person into a health plan. But we are still experimenting with how the choice is made for one person versus another who is differently situated; and it is not necessarily a good choice.

This is an area where the best solution is not simply to buy the plan. And yet the solution is not to allow a continuation of a process of sending people to public hospitals, only to get second- and third-rate services, because the public hospitals can't compete with private hospitals in the same community. That is not doing people any favor. It is giving them a lot of money that is not really doing the community or the individuals any good.

I take it that your advice is to stay flexible for some period of time as we are deciding the most appropriate way to make health make the buy. And to block cash or to block a dollar commitment is to forego the opportunity to facilitate improvement, not only in access but, I assume, improvement in the delivery system for health services. Would you agree generally with that?

Mr. O'Neill. With everything except the last phrase. I am not sure that we know enough to improve the health system on the Federal level, and that is the only reservation I have with regard to what you suggest.

If I may, one other thing that you have reminded me of, which other witnesses have mentioned this morning. There are marked, differences in the cost of living, not only between States, but within States, and I don't envy you the task of trying to figure out how you monetize our compassion for those different needs that exist around the country. It is a very difficult problem.

Mr. Greenstein. Your question of the administration's principle, I think what we may hear publicly as the principles getting the most emphasis, may be somewhat different from what I think the real underlying principle is. I think that we will hear a lot of emphasis on experimentation that is, "What is wrong with allowing several States to do these demonstration projects that the White House will soon be coming in with?"

After a recent article on the White House plan in the New York Times, a lot of people thought that one of the major principles was the "cash out." I got calls from several editorial writers who said, "Isn't it interesting that Ronald Reagan is coming around to where Richard Nixon was, the cash out?" I said, no, you don't understand, it is really 180 degrees diametrically opposed to Nixon's idea.

The real principle, it seems to me, is not cash or noncash, it is the Federal/State role principle; it is the idea of taking a large mass of programs, saying to the States that in a megablock grant, you can really do whatever you want within that fixed grant. It strikes me that it is really, in a somewhat different garb, the same principle, raised as in 1982, which was devolve AFDC, devolve food stamps, devolve WIC, devolve Headstart, devolve all of those kinds of programs. The underlying theme being that except for Social Security and possibly something in the health care area, the rest of it shouldn't be a Federal responsibility at all with regard to low income.

As I understand these State demonstrations, it is a foot in the door. There are more sophisticated, longer range ways to get where 1982 would have gotten us. There are no Federal standards in these demonstrations, no floor for families with children. We know from past history for SSI, the elderly and disabled still did much better in States than families with children. These families always do most poorly when those programs and benefit levels are set at the State level.

You can have an economic downturn, and not have the money there. It doesn't have the right countercyclical approach that our current entitlement structure does. Currently, if the economy goes down, and more people are in need in a State, there is an entitlement for more AFDC and food stamps benefits.

There are some other very interesting problems as well. You take something like food stamps. What is wrong with cashing out food stamps? In the abstact, nothing. But in practice look at what is likely to happen if you allow a State to cash out food stamps as part of the block grant? You add the cash value of food stamps for the families with children to the AFDC, and you add the cash value of the food stamps into the SSI benefit for the elderly on SSI. What happens to the childless couples or what happens to the 58-year-old widow? No State is going to establish its own Food Stamp Program, with all the administration that is involved, just for those people. Historically, States have not been able politically to provide cash to those people. So if you cash out food stamps as part of a block grant, these people may lose their food stamps and get nothing in return.

This is precisely why we have a Federal program, whether it is in food stamps or in cash and the only way we have been able to provide assistance to these people in a Federal program is to call it a food stamp voucher, rather than to call it cash—but it is our one floor under everyone. I see the major principle where the administration is heading as saying that the Federal Government shouldn't do that any more, and I think that this is a big problem.

Senator DURENBERGER. Bob and Paul, I want to thank you, and I am going to excuse myself. I am going to turn the subcommittee over to my distinguished colleague, who has been debating similar issues, I think, in terms of the drug bill on the floor in his usual common sense, forthright manner.

I do have a time conflict. Let me express my appreciation to you and all of the other witnesses. I am sure the staff has some questions that we would like you to elaborate on, for the record. I am very grateful that you are here today. Thank you.

Senator EVANS. Thank you, Mr. Chairman.

First, let me say that I am sorry that I wasn't able to hear my distinguished colleague from the State of Washington, John Horsley, who is and has been a very strong leader in the field of local government, recognized as such by his colleagues and made President of the National Association of Counties.

My gratitude is great to Stu Eizenstat for the work that he has done, not only on the commission, but following the work on the commission, to dig into the details, and help produce a legislative proposal which I believe is the only way we are going to be able to focus the debate and have some chance of making progress during the course of the next Congress.

Let me turn, Bob, to your last concerns and statement. The direction, of course, we would take in the proposal that was made by our commission would be essentially the reverse of the administration's previous proposal. Would it not make sense—a nationally oriented safety net, and the consistency that that can bring; that we then ought to devolve, eliminate, abandon, and get out of some of the many programs we tend to grab on to at the Federal level, and which are not national in scope, but do have local, regional, or statewide interests that are quite disparate?

Mr. GREENSTEIN. I support the framework in your bill. I see it, in many ways, as the reverse of the administration. As I mentioned a few minutes ago, as your specs note, there are different ways to design the devolution plan, and most of it, it seems to me, very on target. I have a few concerns,which I expressed.

One was in the general area of the working poor, which I think are very important to help. The Medicaid provisions are very helpful in that regard. I have some concern about the component of the social services block grant that goes to child care for nonwelfare mothers if it doesn't get picked up through your Employment and Training Program.

I have wondered whether it might be useful to consider a Federal block grant for child care for those people, kind of a modest component of what is now the SSBG, but still devolve most of it.

My major concern is in the area of low-income housing, recognizing that the present programs have their problems, but with a real concern, given that the census data show that half of all renters with incomes below $7,000 a year now pay 60 percent of their income for rent and utilities. I am a little scared, in some areas, of rents going up and people losing on the rent side what they gain on the AFDC and Medicaid side.

I guess my preference would be, and I know that it is hard to make the numbers fit on the devolution, but my preference would be to find some other programs, maybe some on John Shannon's list, to put in place of low-income housing.

In terms of your general question, yes, I think that this is the right structure to have the larger Federal role and Federal floors in AFDC and Medicaid, expand employment and training for long-term welfare recipients, and in return for that, devolve a number of areas to the States. I very much support that.

Senator EVANS. Your concerns about low income housing and other elements, in a broader sense, aren't you saying that what we ought to be doing is analyzing and trying to describe as carefully as possible what really constitutes a safety net. What is included within that, which is the focus at the Federal level, and what is excluded and really ought to be left to the devices and the ingenuity of the States.

Mr. GREENSTEIN. I think that it is fair to say. There is a second issue on housing, and I hear both sides of this debate. There are those who argue that the issue isn't simply one of the safety net, but we have a supply problem in low-income housing, and we have to have investment, which won't come from any area other than Federal, to keep the low-income stock from shrinking more. There are other people who do not agee with that, and argue that it is not a supply problem, but it is simply that people don't have the money to afford whatever the stock otherwise is.

The housing area always strikes me as one of the most difficult ones to deal with. What troubles me are these figures. The GAO, based on census figures, shows that about 3.7 million low-income households were paying more than half their income for rent in 1975, and by 1983, it was 6.3 million households.

For someone who worked for a long time in the food assistance area, my own view is that the increased problem that appears to have arisen in the last several years in the hunger area has much less to do with cuts we made in the early 1980's in the Food Stamp Program than with the fact that as people pay more and more of their income for rent and utilities, they have less left for food.

I don't have a prescription for what the answer is. I just get a little scared when I look at the tax bill, which I very much support, and see that it may increase rents. Then we look here, in a structure that I very much like that you have, where basically there is no low income housing Federal program there. I worry that we may have some real unintended effects that we don't want.

I am not sure what the best answer is on that, but it scares me.

Senator EVANS. I think the problem of housing is much broader than even the one of low income housing. It is increasingly apparent, at least in recent years, that people of quite substantial income, especially those who have not been building an equity in a home, find it very difficult to purchase or get involved in homeownership, which has been a tradition. That, obviously, is a function of the sharp increase in values of homes, coupled with the increase in interest rates.

I suppose that the best thing we could do for housing at all income levels is find a way to get long-term interest rates down. I don't know why they are not coming down. There is still neither the competitive drive that will bring them down, nor the confidence of the financial community in the future. Hopefully, tax reform, and maybe some better control of our budget will be the elements that will achieve that additional confidence.

Paul, you mentioned something that I think is going to be a difficult problem for us, and I don't know if you have any ideas or solutions. While we talk about a uniform safety net, and I know that in testimony in front of our Commission, currently there is about a fivefold difference between minimum and maximum payments. That, obviously, is far greater than the actual cost of living differential, but those are quite substantial themselves. If we move to a single national standard, we could be just as out of balance with where we ought to be as we are with the current disparities. How can we best deal with that without getting terribly complex?

Mr. O'NEILL. Frankly, I think it may be a more difficult political problem than it is a difficult data problem. I will tell you my personal experience to illustrate the last point.

In the last 12 months or so, I and my associates have been looking at places where we could relocate a substantial block of people who are currently employed in New York City. We, honestly, had no difficulty in gathering what I consider to be pretty reliable cost of living data in different locations across the country.

I think the data is available. The thing that I suspect you are going to have great difficulty with is rounding up enough votes to agree to recognize those real cost of living differences. For example, in the New York metropolitan area, housing costs on average are about twice as high as they are in Memphis, TN. This suggests a very important component of income assistance would be that cost of living difference.

If you are not able to do something that approximates the real cost of living differences, you are going to have an unintended effect of favoring or disfavoring people's locational decisions. For example, in the last 20 years, there have been arguments as to whether we should be encouraging people to move away from areas that didn't seem to have prospects for real economic development.

That is another very difficult, imbedded public policy issue in the context of what you have here. There is no doubt at all, if we were to adopt a simple minimum standard for the whole country, we would have perverse effects as between locational decisions for low income people.

Senator EVANS. That has been something, of course, bandied about for years, to what extent do people actually move. If, in fact, there is a fivefold differential now, are we seeing a significant number of people moving from the cheapest to the highest?

There isn't very good knowledge among recipients, in the first place, that there are those differentials, and also it is terribly difficult to pick up and transfer even modest possessions from one place to another.

Mr. O'NEILL. I think that is right. I must say that one of the things that is different from where we were 10 years ago, when I was here, that I regret a lot, is that as a National Government, we have substantially reduced the amount of money that we are putting into the kind of research that could help us deal with the complex problems you are now talking about.

I don't know of any important work, and maybe there has been some, on the housing question that Bob was talking about since the work that we funded in 1974, 1975, and 1976 at the Rand Corp., and I think we have not done ourselves proud in terms of creating the information base we need to deal well with these complex social problems.

Senator EVANS. I think, Bob, you mentioned, and I think that we are all very much concerned about decisions we have made on tax reform which may have some far reaching impact. I think that is probably open to question at this moment. We are working in a real fog, and it won't clear up for some period of time. It may be that there isn't significant impact on the cost of housing, and that investment decisions are made for different reasons and under different expectations, or it may go just the way some fear.

You mentioned the political problems of trying to distinguish, and to work all those out. Should we attempt, however, to work on a formula first, try to agree on what those elements are, and avidly keep anybody from plugging numbers into the formula no matter where they end up, and getting some sort of agreement just at the State level.

Would it be appropriate if we did that, and accomplished that at the State level, and then left each State to then carry it the next step down, so that they could distinguish the cost-of-living differentials within the State? Do you think that this is possible to achieve?

Mr. O'NEILL. I think that there is merit in that. The last time I spent a lot of time personally looking at the data, I was struck by the degree to which the disparities within States seem to be even greater than the disparities between States. So you may have some problems with that.

In the political sense if there is really hope to accomplish what you have laid out here, I think it is only because you have laid out the principles. If you can keep the debate on the principles, it is difficult to believe that you can't get where you want to go, because I do not believe, for example, that a majority of our population lacks the sense of compassion that is required to do the things that you are proposing.

If we keep the argument on that level, in spite of the iron triangle issues, I think that you have real hope of succeeding.

Mr. GREENSTEIN. I was going to say, too, that at least in putting together the basic framework on the bill, it is not necessary to get hung up on detailed cost-of-living formulas. As I understand what your bill does, you have a floor but States can, as most now do, provide benefits above that and they would continue to get Federal matching for that. Just as in the SSI Program, the States can supplement the basic SSI level now. Many are not going to provide additional benefits or supplementation that matches the difference in the cost of living.

If anything, the difference between the benefit levels and the variations in cost of living would be less under your bill than it currently is now. Certainly, the fact that we cannot precisely compute different costs of living at different levels is absolutely not a reason not to move forward with what you have.

Senator EVANS. In looking forward, I think that we have to be careful here, if we are talking about trying to establish this national safety net, to differentiate between payments to people in similar circumstances only by the differential in the cost of living. Eventually, 90 percent of that support, financial support, is going to come from the Federal Government, I think that we have to be very careful that we do not just have an open-ended scheme where for 10 cents on the dollar, the States can go way above what is proposed. That, I think, we have to be pretty careful about.

Mr. GREENSTEIN. As I understand your plan, I thought that the States paid 10 cents on the dollar on the amount that is up to the floor, but if States went above the floor that the current matching rates hold, and they would pay a lot more than 10 cents on the dollar.

Senator EVANS. The intent is to move the floor up as we go along. Eventually, in the longer haul, I think that it is hoped that we can reach some legitimate percentage of poverty level, for instance, funded at the 90-percent level, and that there would not be that real necessity at that point to go very much beyond that.

Mr. GREENSTEIN. At least in the bill, through 1994, it goes up to 62 percent.

Senator **Evans**. That is right, but I am talking about a longer term beyond that. But you are right in terms of the legislation contemplated now.

We appreciate very much, not only your testimony, but the testimony of others. I will have an opportunity to read that of those I am very sorry I missed. We are deeply involved in the drug bill, and I got involved in a longer exchange than I expected to.

Interesting enough, it revolved around many of the same questions: Who has responsibility, and what is the shared responsibility between the States, communities, and the Federal Government in that other nationwide problem we have in front of us. We are struggling with that right now, and we are also struggling with the fact that the House, in its passion, I think, passed a bill that didn't pay too much attention to the Constitution, so now we have to deal with that.

Mr. **Greenstein**. A number of us appreciate your courage on the drug bill, Senator.

Senator **Evans**. Thank you very much all of you. The hearing is adjourned.

[Whereupon, at 12:30 p.m., the subcommittee adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

99th CONGRESS
2d Session

S. 2926

To establish more uniform eligibility and benefit levels under the aid to families with dependent children program and the medicaid program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of aid to families with dependent children, to provide for a reduced Federal role with respect to certain activities, to provide transitional fiscal capacity grants to States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15 (legislative day, OCTOBER 10), 1986

Mr. EVANS (for himself and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To establish more uniform eligibility and benefit levels under the aid to families with dependent children program and the medicaid program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of aid to families with dependent children, to provide for a reduced Federal role with respect to certain activities, to provide transitional fiscal capacity grants to States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federalism Act of 1986".

SEC. 2. STATEMENT OF POLICY AND PURPOSE.

(a) STATEMENT OF POLICY.—It is the policy of the United States that—

(1) the Federal Government should assume responsibility if—

(A) nationwide uniformity of policy, finance, or administration is important to the solution of a problem, or

(B) it is necessary to raise revenues from the Nation as a whole and to distribute them to the various parts of the Nation;

(2) State and local governments should assume responsibility if—

(A) diversity of policy, finance, or administration is important to the solution of a problem, or

(B) experimentation by State and local officials with a knowledge of local conditions is important to meeting public needs; and

(3) State governments, rather than local governments, should assume responsibility if—

(A) the State constitution does not assign responsibility with specificity to the State government or to local governments,

(B) the multiplicity and diversity of local governments create barriers to raising revenues and delivering services effectively, or

(C) there is no compelling reason for the Federal Government to determine the distribution of resources and responsibilities.

(b) PURPOSE.—In furtherance of the principles set forth in subsection (a), it is the purpose of this Act—

(1) to terminate a number of shared programs and allow States to set their own priorities;

(2) to create greater nationwide uniformity of benefits in the Federal "safety-net" programs;

(3) to promote the employment of welfare recipients;

(4) to remove the tangled web of regulations imposed by the Federal government on State and local governments;

(5) to level the fiscal disparities between the poorest and wealthiest States and localities; and

(6) to reform intergovernmental relationships while assisting in the elimination of the Federal deficit crisis.

(c) BUDGET NEUTRALITY.—The principles and purposes set forth in subsections (a) and (b) shall be implemented gradually and on a fiscally neutral basis.

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN

Subtitle A—Benefits and Federal Participation

SEC. 101. AFDC MINIMUM BENEFIT AMOUNT.

(a) MINIMUM BENEFIT AMOUNT.—

(1) Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(A) by striking "and" at the end of paragraph (38),

(B) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(C) by inserting after paragraph (39) and before the matter following such paragraph the following new paragraph:

"(40) provide that aid provided under the plan shall be equal to or greater than the minimum benefit amount specified in section 411.".

(2) Part A of title IV of such Act is amended by inserting between sections 410 and 412 the following new section:

"MINIMUM BENEFIT AMOUNT

"SEC. 411. (a) The minimum monthly benefit amount for aid furnished in any month under a plan approved under this part with respect to any dependent child (including the relative with whom the child is living and any other individual in the same home as the child, whose needs are taken into account in making the determination under section 402(a)(7)) shall be an amount that, when added to the value of any food stamp allotment to which the family or its household is entitled for such month, is equal to the applicable percentage of the nonfarm income official poverty line established by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family of the same size.

"(b) For purposes of this section—

"(1) the term 'applicable percentage' means—

"(A) 50 percent with respect to months beginning in fiscal year 1989,

"(B) 52 percent with respect to months beginning in fiscal year 1990,

"(C) 54 percent with respect to months beginning in fiscal year 1991,

"(D) 56 percent with respect to months beginning in fiscal year 1992,

"(E) 58 percent with respect to months beginning in fiscal year 1993,

"(F) 60 percent with respect to months beginning in fiscal year 1994, and

"(G) 62 percent with respect to months beginning in any fiscal year after fiscal year 1994; and

"(2) the term 'fiscal year' has the meaning given to such term in section 1102 of title 31, United States Code.".

(b) FEDERAL MATCHING RATE.—Section 1118 of the such Act (42 U.S.C. 1318) is amended—

(1) by striking the second sentence,

(2) by inserting "(a)" after "Sec. 1118.", and

(3) by striking the last sentence, and

(4) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a), the term 'Federal medical assistance percentage' shall mean—

"(1) 90 per centum with respect to any amounts expended by the State (as aid to families with dependent children) to meet the minimum benefit requirements of section 402(a)(40), and

"(2) the Federal medical assistance percentage (as defined in section 1905) with respect to any amounts (expended by the State as aid to families with dependent children) in excess of the amounts necessary to meet such requirements.".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by subsections (a) and (b) shall become effective October 1, 1988.

SEC. 102. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act, as amended by section 101 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS.—

(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1988.

Subtitle B—Work-Related Requirements

SEC. 111. STATE PLAN REQUIREMENTS; REGISTRATION OF AFDC APPLICANTS AND RECIPIENTS FOR WORK-RELATED COUNSELING, ASSESSMENT, AND ASSIGNMENT.

(a) REQUIREMENT OF REGISTRATION.—Section 402(a)(19) of the Social Security Act is amended—

(1) in subparagraph (A)—

(A) by striking out "shall register" and all that follows down through "regulations issued by him," in the matter preceding clause (i) and inserting in lieu thereof "shall register with the State agency designated under section 416, in accordance with regulations issued by the Secretary, for work-related counseling, assessment, and assignment to employment, training, education, and other employment-related activities as described in section 416(b),";

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) a person so remote from appropriate employment related activities that his or her effective participation in such activities is precluded;";

(C) in clause (v) by inserting "(or such younger age as the State may designate)" after "six";

(D) by striking out "to participate under a work incentive program or accept" in clause (vi) and inserting in lieu thereof "to participate in good faith in counseling and assessment with such agency and in employment, training, or education pursuant to an assignment under that section, or to accept";

(E) by striking out "the Secretary of Labor" in clause (v) and inserting in lieu thereof "the State agency designated under section 416";

(F) by striking out "or" at the end of clause (viii);

(G) by adding "or" after the semicolon at the end of clause (ix);

(H) by inserting after clause (ix) and before the matter following such clause the following new clause:

"(x) any individual with respect to whom the State agency designated under section 416 makes the determination that counseling, assessment, and the employment-related activities described in section 416(b) will not improve the employment prospects of the individual;"; and

(I) in the matter following clause (x)—

(i) by striking out "any individual referred to in clause (v)" in the matter following clause (ix) and inserting in lieu thereof "(I) any individual exempt from registration under the preceding provisions of this subparagraph", and

(ii) by striking out "register;" the second place it appears and inserting in lieu thereof "register, and (II) no individual providing care for a child under the age of six shall be required to register by reason of the parenthetical expression in clause (v) unless the State agency designated under section 416 is able to make necessary transportation and child care arrangements available to such individual;";

(2) in subparagraph (B), by striking out "or the individual's certification" and all that follows and inserting in lieu thereof "or the individual's certification under subparagraph (G) of this paragraph to the State agency designated under section 416, or by reason of an individual's participation in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3);";

(3) in subparagraph (C), by striking out "a non-Federal contribution to the work incentive programs" and all that follows and inserting in lieu thereof "a non-Federal contribution by appropriate State and local agencies and private organizations to the work incentive programs established by part C, and to any other work-related programs to which individuals are assigned under section 416(b)(3), as specified in section 416(e);";

(4) in subparagraph (D), by striking out "under section 434" and "a program established by section 432(b)(2) or (3)" and inserting in lieu thereof "under a program to which individuals are assigned by the State agency designated under section 416" and "such a program", respectively;

(5) in subparagraph (F)—

(A) by striking out "that if" and all that follows down through "purposes of such part C" (in the matter preceding clause (i)) and inserting in lieu thereof "that if (and for such period as is prescribed under regulations of the Secretary) any child, relative, or individual required to register under subparagraph (A) has been found by the State agency designated under section 416 to have refused without good cause to so register, or has refused without good cause to participate in good faith in counseling and assessment with the State agency designated under section 416 or in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3),"; and

(B) by adding after and below clause (v) the following:

"and for purposes of this subparagraph a refusal by an individual to accept employment shall be considered to have been made with good cause if the acceptance of such employment would result in a net loss of income by such individual;".

(6) in subparagraph (G)—

(A) by striking out "for the administration of programs established pursuant to section 432(b)(1), (2), or (3)" and inserting in lieu thereof "by the State agency designated under section 416";

(B) by striking out "the order of priority listed in section 433(a)" and inserting in lieu thereof "with the order of priority determined by the State";

(C) by striking out "under section 432(b)(1), (2), or (3)" each place it appears and inserting in lieu thereof "under the work-related program involved";

(D) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "the State agency designated under section 416";

(E) by striking out "accepts employment" and "retain such employment" and inserting in lieu "accepts counseling, assessment, job search, employment, training, or education" and "continue such counseling, assessment, job search, employment, training, or education", respectively; and

(F) by striking out clause (iii) and redesignating clause (iv) as clause (iii); and

(7) in subparagraph (H), by striking out "under section 432(b)(1), (2), or (3)" and inserting in lieu thereof "under section 416".

(b) REQUIREMENT OF CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.—Section 402(a) of such Act is further amended.—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) consolidate the administration of the State's work-related functions under this part, by providing for the assignment of registered individuals by the State agency designated under section 416 to work-related counseling, assessment, and to employment and training programs (as described in such section) and for the performance by such agency of its other duties under that section and under paragraph (19) of this subsection.".

SEC. 112. CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.

Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS

"SEC. 416. (a)(1) The Governor of each State with a plan under this part shall designate a State agency to perform the functions specified in this section and in section 402(a)(19).

"(2) It shall be the purpose of the State agency designated under this subsection to assist applicants for and recipients of aid to families with dependent children in finding gainful employment and in obtaining any training and education which may be necessary to enable them to perform such employment, with the objective of reducing the number of individuals on the welfare rolls by providing such applicants and recipients with a realistic opportunity to become self-sufficient.

"(b) In carrying out the purpose described in subsection (a)(2), the State agency designated under subsection (a) shall—

"(1) provide for the redesignation of all applicants for and recipients of aid to families with dependent children, consistent with section 402(a)(19), and for the determination of the appropriate employment-related activities (including counseling, assessment, and job search) with respect to each such individual;

"(2) administer, or enter into arrangements with administering authorities for, the participation of such applicants and recipients in employment, training, and education activities determined by the State agency designated under subsection (a) to be in furtherance of the objective stated in subsection (a)(2), including—

"(A) the work incentive program under part C of this title,

"(B) the work incentive demonstration program under section 445,

"(C) the State's community work experience program under section 409,

"(D) the State's work supplementation program under section 414, and

"(E) a work demonstration program under section 1115;

"(F) any program under the Job Training Partnership Act,

"(G) any program of job search and related services, including services offered by vocational education agencies and the public employment offices of the State, and

"(H) any other program (Federal, State, local, or private) which could be made effectively available to such applicants and recipients and participation in which would further such objective;

"(3) assign each such applicant or recipient to activities or programs with respect to which arrangements have been entered into under paragraph (2) and which are determined by the State agency designated under subsection (a), to be appropriate for such applicant or recipient, and provide all possible assistance to such applicant or recipient in preparing for, enrolling in, and participating in such program or programs; and

"(4) take all other actions, not inconsistent with the provisions of this section or of the law governing the program or programs involved, which may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(c)(1) The terms and conditions of participation in employment, training, and education activities as described in subsection (b)(2), and the manner in which the provisions of the programs involved are to apply with respect to applicants and recipients registered under section 402(a)(19), shall be determined (subject to the specific requirements of this title and of such programs) by the State agency designated under subsection (a) in consultation with the administering authorities of such programs.

"(2) To the maximum extent possible, the steps taken in providing for participation in counseling, assessment, and job search, and the employment, training, and education activities as described in subsection (b)(2) shall include coordination of the services furnished and activities conducted under the various programs involved with respect to registered applicants and recipients in order to avoid inefficiency and duplication of effort and to assure the widest possible availability to such applicants and recipients of services and activities which will further the objective stated in subsection (a)(2). Under regulations prescribed by the Secretary, this section and all functions performed by State agencies and entities under this section shall be coordinated with the work and training requirements which apply to applicants for and recipients of benefits under the Food Stamp Act of 1977.

"(d) The State agency designated under subsection (a) shall make available to registered applicants and recipients who are assigned for employment, training, or education under subsection (b)(3) such child care services and transportation, and such other assistance not inconsistent with law, as may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(e)(1) Notwithstanding any other provision of law, and except as provided in paragraphs (4) and (5), the Federal contribution to the costs incurred by the State agency designated under subsection (a) in any fiscal year, and to the costs incurred by any other State agency or entity in carrying out a program referred to in subsection (b)(2) with respect to individuals assigned to that program under subsection (b)(3) in any fiscal year shall be equal to the applicable percentage of such costs as determined under paragraph (2).

"(2)(A) For purposes of paragraph (1), the applicable percentage of the costs described in that paragraph which are incurred by any State agency or entity in fiscal year 1988 shall be 90 percent.

"(B) For purposes of paragraph (1), the applicable percentage of the costs described in paragraph (1) which are incurred by any State agency or entity in a fiscal year beginning after fiscal year 1988 shall be—

"(i) 90 percent, with respect to so much of a State's allotment for such fiscal year under subsection (f) as does not exceed the amount allotted to the State under such subsection for fiscal year 1988,

"(ii) 70 percent, with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988, and

"(iii) a percentage (not more than 90 percent and not less than 70 percent) specified by the Secretary on the basis of the performance of the State agency designated under subsection (a), with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988.

"(3)(A) In any fiscal year beginning after fiscal year 1988, the percentage specified by the Secretary under paragraph (2)(B)(iii) shall be determined in accordance with performance standards developed and prescribed by the Secretary of Health and Human Services, in consultation with the Secretary of Labor, appropriate State officials designated for purposes of this paragraph by the Governors of the several States, and other appropriate experts.

"(B) Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act)—

"(i) shall be measured by outcomes and not by levels of activity or participation, and shall be based on the degree of success which may reasonably be expected of States (in carrying out their employment-related programs with respect to registered individuals assigned under subsection (b)(3)) in helping such individuals to achieve self-sufficiency and reducing welfare costs;

"(ii) shall take into account the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience; and

"(iii) shall encourage States to give appropriate recognition to the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience.

"(4) The Federal contribution for administrative costs shall be 50 percent.

"(5) The Federal contribution for the costs of providing (or making available) transportation, child care, and other employment-related support services (as defined by the Secretary in regulations) to registered individuals assigned to a program under subsection (b)(3) shall be 90 percent.

"(f)(1) Notwithstanding any other provision of law, there are authorized to be appropriated—

"(A) $500,000,000 for fiscal year 1988,

"(B) $600,000,000 for fiscal year 1989,

"(C) $700,000,000 for fiscal year 1990,

"(D) $800,000,000 for fiscal year 1991,

"(E) $900,000,000 for fiscal year 1992, and

"(F) $1,000,000,000 for each of the fiscal years 1993, 1994, and 1995,

to carry out the activities under this section.

"(2) The amount allotted to a State under paragraph (1) for a fiscal year shall be an amount that bears the same ratio to the amount appropriated under such paragraph for such fiscal year as—

"(A) the average number of AFDC recipients in such State during the most recent 12-month period preceding the commencement of such fiscal year for which satisfactory data are available, bears to

"(B) the average number of AFDC recipients during such period in all the States.

SEC. 113. OPTIONAL COVERAGE OF EMPLOYMENT-RELATED SUPPORT SERVICES FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act, as amended by sections 101 and 102 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) at the option of the State, provide that, in any case where a family has ceased, by reason of increased income from employment, to be eligible for aid under the State plan approved under this part (A) payment under the plan for child care, transportation, and other employment-related support services (as defined by the Secretary in regulations) will continue for such family for a period of up to twelve months after the family has ceased to be eligible for such aid, and (B) at the option of the State, a family contribution for such services (determined in accordance with a sliding scale based on income) will be required.".

(b) REIMBURSEMENT.—Section 416(e)(5) of such Act, as added by section 112 of this Act, is amended by inserting "(and to other individuals eligible for such services in accordance with section 402(a)(42))" after "subsection (b)(5)".

SEC. 114. TECHNICAL, CONFORMING, AND MISCELLANEOUS AMENDMENTS.

(a) AMENDMENTS TO PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv)(II) of the Social Security Act is amended by striking out "under the programs established by section 432(b)(2) and (3)" and inserting in lieu thereof "under any training, education, or public service employment program to which such child or relative has been assigned pursuant to section 416(b)(3)".

(2) Section 403(c) of such Act is amended by striking out "certified to the local employment office of the State as being ready for employment or training under section

432(b)(1), (2), or (3)" and inserting in lieu thereof "assigned by the State agency designated under section 416(a) for counseling, assessment, or job search, or for any employment, training, or education activities pursuant to section 416(b)(3)".

(3) Section 407(b)(2)(C)(i) of such Act is amended by striking out "for the work incentive program" and all that follows and inserting in lieu thereof ", and".

(4) Section 407(d)(1) of such Act is amended by striking out "a community work experience program under section 409, or the work incentive program established under part C" and inserting in lieu thereof "a program with respect to which the State agency designated under section 416(a) has provided under section 416(b)(2) for participation by registered individuals in employment, training, and education activities".

(5) Section 407(e) of such Act is amended—

(A) by striking out "and the Secretary of Labor shall jointly" and inserting in lieu thereof "shall";

(B) by striking out "for the work incentive program" and all that follows down through "or in connection" and inserting in lieu thereof "and in connection"; and

(C) by striking out "both the work incentive program" and inserting in lieu thereof "both the programs referred to in section 416(b)(2)".

(6) Section 414(h) of such Act is amended by striking out "or part C".

(b) AMENDMENTS TO PART C OF TITLE IV.—(1) Part C of title IV of such Act is amended—

(A) by striking out section 431;

(B) in section 432(a), by striking out "The Secretary of Labor (hereinafter in this part referred to as the Secretary)" and inserting in lieu thereof "The Secretary";

(C) in section 436(b), by striking out "prescribed jointly by him and the Secretary of Health and Human Services" and inserting in lieu thereof "prescribed by him";

(D) in section 439—

(i) by striking out "and the Secretary of Health and Human Services" where it first appears, and

(ii) by striking out ", jointly by the Secretary and the Secretary of Health and Human Services," and inserting in lieu thereof "by the Secretary";

(E) in section 441, by striking out "(jointly with the Secretary of Health and Human Services)";

(F) in section 443—

(i) by striking out "of Health and Human Services" in the first and second sentences, and

(ii) by striking out "and shall be paid by the Secretary of Health and Human Services to the Secretary" in the fourth sentence;

(G) in section 444(a), by striking out "by the Secretary of Health and Human Services"; and

(H) in section 445—

(i) by striking out "of Health and Human Services" each place it appears in paragraphs (1) and (2) of subsection (b) and in subsection (e), and

(ii) by striking out paragraph (3) of subsection (b).

(2) Section 433(a) of such Act is amended—

(A) by striking out "certified to him by a State, pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)"; and

(B) by striking out "certified to him under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(3) Section 433(b)(3) of such Act is amended by striking out "certified to him pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(4) Section 433(g) of such Act is amended by striking out "certified to the Secretary pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(5) Section 435(a) of such Act is amended by striking out "shall not exceed 90 per centum of the costs of carrying out this part" and inserting in lieu thereof "shall be equal to the applicable percentage of the costs of carrying out this part as determined under section 416(e)".

(6) Section 444(a) of such Act is amended by striking out "individuals certified" and all that follows and inserting in lieu thereof "individuals assigned to the work incentive program pursuant to section 416(b)(3).".

(7) Section 444(d) of such Act is amended by striking out "certified to the Secretary by such agency under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the State agency designated under section 416".

(8) Section 445 of such Act is amended—

(A) by striking out "Not later than June 30, 1985, the" in subsection (b)(1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "The";

(B) by striking out ", and shall be required to participate in," in subsection (b)(1)(B); and

(C) by striking out "shall be in force for a three-year period" in subsection (d) and inserting in lieu thereof "shall be in force for such period as may be specified in the letter of application submitted under subsection (b)(1), and may be renewed (upon the submission by the Governor of an appropriate letter of application, subject to approval in the manner described in subsection (b)(2)) for an additional period or periods".

(c) RELATIONSHIP WITH OTHER WORK-RELATED PROGRAMS.—Whenever a provision of section 416 of the Social Security Act, or any other provision of such Act which is amended by the preceding provisions of this Act, is determined to be inconsistent with a provision of any of the work-related programs referred to in section 416(b)(2) of such Act or of any other work-related program which may involve or affect individuals who have registered under section 402(a)(19) of such Act and are assigned to such program under section 416(b)(3) of such Act, the provision of section 416 of the Social Security Act (or other provision of such Act as amended by this Act) shall govern.

SEC. 115. EFFECTIVE DATE.

Except to the extent otherwise specifically provided, the amendments made by this subtitle shall take effect October 1, 1987.

Subtitle C—Hold Harmless

SEC. 121. HOLD HARMLESS.

Notwithstanding any other provision of title IV or XI of the Social Security Act, the Federal percentage shall be 100 per centum with respect to—

(1) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for such aid and activities for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE II—MEDICAID

SEC. 201. MEDICAID ELIGIBILITY FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) QUALIFIED PREGNANT WOMEN AND CHILDREN.—

(1) Section 1905(n) of the Social Security Act (42 U.S.C. 1396f(n)) is amended to read as follows:

"(n)(1) The term 'qualified pregnant woman or child' means—

"(A) women during pregnancy (and during the 60-day period following pregnancy),

"(B) infants and children under five years of age,

"(C) children who have attained five years of age but have not attained six years of age,

"(D) children who have attained six years of age but have not attained seven years of age,

"(E) children who have attained seven years of age but have not attained eight years of age,

"(F) children who have attained eight years of age but have not yet attained nine years of age,

"(G) children who have attained nine years of age but have not yet attained ten years of age,

"(H) children who have attained ten years of age but have not yet attained eleven years of age, and

"(I) children who have attained eleven years of age but have not yet attained twelve years of age,

whose family income does not exceed 100 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) Notwithstanding subsection (a)(17), for purposes of this subsection family income shall be determined in accordance with the methodology employed under section 5 of the Food Stamp Act of 1977. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(2)(A) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by inserting "except as provided in subsection (n)," after "(17)".

(B) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(f)(1) or" after "as medical assistance".

(b) Required Services.—Section 1902 of such Act (42 U.S.C. 1396a), as amended by subsection (a), is further amended by adding at the end thereof the following new subsection:

"(l) The Secretary shall establish uniform national minimum standards with respect to the types of care and services described in section 1905(a) that shall be made available to qualified women and children under State plans approved under this title. Such services shall include, with respect to pregnant women, at least the services described in subsections (a)(10)(C)(iii)(II) and (e)(5).".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this Act shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(2)(A) Subparagraph (C) of section 1902(n)(1) of the Social Security Act, as added by subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(B) Subparagraph (D) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(C) Subparagraph (E) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(D) Subparagraph (F) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1991.

(E) Subparagraph (G) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1992.

(F) Subparagraph (H) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1993.

(G) Subparagraph (I) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1994.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after October 1, 1987.

(4) The amendments made by this section shall become effective without regard to whether the Secretary of Health and Human Services has promulgated

final regulations with respect to the standards required by section 1902(l) of the Social Security Act.

SEC. 202. MEDICAID ELIGIBILITY FOR CERTAIN OTHER INDIVIDUALS.

(a) IN GENERAL.—

(1) Subsection (f) of section 1902 of the Social Security Act (42 U.S.C. 1396a(F) is repealed.

(2) Section 1902(a)(10)(A)(i) of the Social Security Act, as amended by section 201, is further amended—

(A) by striking "or" at the end of subclause (II),

(B) by striking the semicolon at the end of subclause (III) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subclauses:

"(IV) who are eligible to have paid with respect to them supplemental security income benefits under title XVI, or

"(V) who would be eligible (if they were not in a medical institution) to have paid with respect to them, aid or assistance under the appropriate State plan described in subclause (I), supplemental security income benefits under title XVI.".

(3)(A) Section 1843(b) of such Act (42 U.S.C. 1395v(b)) is amended by striking "subject to section 1902(f),".

(B) Section 1902(a)(10)(A)(ii)(IV) of such Act is amended to read as follows:

"(IV) with respect to whom there is being paid, or who are eligible to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 203. MEDICALLY NEEDY PROGRAM REQUIRED.

(a) IN GENERAL.—Section 1902 of the Social Security Act, as amended by sections 201 and 202, is further amended by adding at the end thereof the following new subsection:

"(m) In order to be approved under this section, a State plan shall, pursuant to subsection (a)(1)(C), include medical assistance for one or more groups of individuals described in section 1905(a) who are not described in subsection (a)(1)(A) of this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 204. FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

Section 1905(b) of the Social Security Act 942 U.S.C. 1396d(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(b)",

(3) by striking "Hawaii;" and inserting in lieu thereof "Hawaii, decreased by the applicable number of percentage points;",

(4) by striking "83 per centum" and inserting in lieu thereof "90 per centum",

(5) by striking "Act)." and inserting in lieu thereof "Act). Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 80 per centum with respect to amounts expended as medical assistance for qualified pregnant women and children (as defined in section 1902(n)) for calendar quarters beginning on or after October 1, 1987, and before October 1, 1988, and 90 per centum with respect to amounts so expended in calendar quarters beginning on or after October 1, 1988.", and

(6) by adding at the end thereof the following new paragraph:

"(2) For purposes of paragraph (1), the applicable number of percentage points (by which a State percentage shall be reduced) is—

"(A) in the case of calendar quarters beginning on or after October 1, 1988, and before October 1, 1989, 2 percentage points,

"(B) in the case of calendar quarters beginning on or after October 1, 1989, and before October 1, 1990, 4 percentage points,

"(C) in the case of calendar quarters beginning on or after October 1, 1990, and before October 1, 1991, 6 percentage points,

"(D) in the case of calendar quarters beginning on or after October 1, 1991, and before October 1, 1992, 8 percentage points,

"(E) in the case of calendar quarters beginning on or after October 1, 1992, and before October 1, 1993, 10 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1993, and before October 1, 1994, 12 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1994, 14 percentage points.".

SEC. 205. HOLD HARMLESS.

Notwithstanding any other provision of title XI or XIX of the Social Security Act, the Federal medical assistance percentage shall be 100 per centum with respect to—

(1) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for medical assistance for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE III—TERMINATION OR REDUCTION OF CERTAIN FEDERAL PROGRAMS

SEC. 301. REPEAL OF CERTAIN STATUTES.

The following provisions of law are hereby repealed:

(1) APPALACHIAN REGIONAL COMMISSION.—Section 101 of the Appalachian Regional Development Act of 1965 (Public Law 89–4; 79 Stat. 5).

(2) ECONOMIC DEVELOPMENT ADMINISTRATION.—Public Works and Economic Development Act of 1965 (Public Law 89–136; 79 Stat. 552).

(3) URBAN MASS TRANSIT INTERSTATE TRANSFER.—Section 4(g) of the Urban Mass Transportation Act of 1964.

(4) URBAN MASS TRANSIT FORMULA GRANTS.—Section 9 of the Urban Mass Transportation Act of 1964.

(5) URBAN MASS TRANSIT RESEARCH.—Section 11 of the Urban Mass Transportation Act of 1964.

(6) UDAG AND CDBG.—Title I of the Housing and Community Development Act of 1974.

(7) IMPACT AID.—

(A) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress).

(B) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

(8) CONSOLIDATION OF EDUCATION PROGRAMS.—Chapter 2 of the Education Consolidation and Improvement Act of 1981.

(9) VOCATIONAL EDUCATION.—Carl D. Perkins Vocational Education Act.

(10) COMMUNITY SERVICES BLOCK GRANTS.—Community Services Block Grant Act.

(11) WASTEWATER.—Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.).

(12) RURAL WATER WASTE DISPOSAL.—Section 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926).

SEC. 302. REDUCTION IN HOUSING ASSISTANCE PROGRAM OUTLAYS.

(a) PROGRAMS TO WHICH REDUCTIONS APPLY.—The reductions required by subsection (b) shall apply to the following housing assistance programs:

(1) Housing assistance payments under section 8 of the United States Housing Act of 1937.

(2) Public housing assistance and loans under the United States Housing Act of 1937.

(3) Rental housing assistance under section 236 of the National Housing Act.

(4) Loans for the development of housing for the elderly and handicapped under section 202 of the Housing Act of 1959.

(5) Congregate services assistance under the Congregate Housing Services Act of 1978.

(6) Operating assistance under section 201 of the Housing and Community Development Amendments of 1978.

(b) AMOUNT OF REDUCTIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the

House of Representatives shall report legislation to their respective Houses reducing the aggregate outlays for the programs referred to in subsection (a) from the fiscal year 1986 aggregate baseline outlay amount, as determined by the Director of the Congressional Budget Office, by the following cumulative amounts:

(1) For fiscal year 1987, $700,000,000.

(2) For fiscal year 1988, $800,000,000.

(3) For fiscal year 1989, $900,000,000.

(4) For fiscal year 1990, $1,000,000,000.

(5) For fiscal year 1991, $1,000,000,000.

(6) For fiscal year 1992, $1,200,000,000.

(7) For fiscal year 1993, $1,300,000,000.

(8) For fiscal year 1994, $1,400,000,000.

SEC. 303. REDUCTION AND TERMINATION OF SOCIAL SERVICES BLOCK GRANT.

(a) REDUCTION.—Section 2003(c)(3) of the Social Security Act (42 U.S.C. 1397b(c)(3)) is amended to read as follows:

"(3) $2,000,000,000 for each of the fiscal years 1988 and 1989.".

(b) TERMINATION.—Effective October 1, 1989, title XX of the Social Security Act is repealed.

TITLE IV—FISCAL CAPACITY GRANTS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) with the same level of tax effort, high fiscal capacity communities can generate twice the tax revenues of low fiscal capacity communities;

(2) such unevenness in revenue raising ability is responsible for substantial differences in the level and quality of basic community services such as public safety, emergency services, assistance to the homeless, indigent and elderly public health, and transportation;

(3) low-income communities generally have higher concentrations of poor individuals who have above average needs for public services and place additional burdens on local governments;

(4) these communities are further burdened by the numerous, unfunded Federal mandates with which they must comply;

(5) it is a responsibility of the Federal government to help ensure that all citizens enjoy a minimum level of basic public services;

(6) it is in the national interest to strengthen the weaker partners in the Federal system by lessening the fiscal disparities that exist among communities;

(7) overall, the current system of Federal aid is only mildly targeted to needy State and local government and does little to lessen fiscal disparities; and

(8) a well-targeted program of general purpose fiscal assistance, with a moderate funding level, could reduce fiscal disparities between high-income and low-income local governments.

(b) PURPOSE.—It is the purpose of this title to establish a program that will—

(1) reduce fiscal disparities among State and local governments, and

(2) ensure that all communities can provide their citizens with a safety net of basic public services,

by providing general purpose fiscal assistance to needy communities.

SEC. 402. DEFINITIONS AND SPECIAL RULES OF APPLICATION.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) except under sections 407(b), 408, and 409(a)(2), the District of Columbia and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(2) The term "entitlement period" means each one-year period beginning on October 1 of 1987, 1988, 1989, 1990, 1991, 1992, and 1993.

(3) The term "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(4) The term "other charges" means the other charges imposed by a State government or unit of general local government as determined by the Secretary of Commerce for general statistical purposes.

(5) The term "adjusted taxes of a unit of general local government" means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance sys-

tems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses.

(6) The term "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(7) The term "per capita income" means—

(A) in the case of the United States, the income of the United States divided by the population of the United States;

(B) in the case of a State, the income of that State, divided by the population of that State; and

(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government.

(8) The term "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 419(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit

of general local government has not complied with subsection (a) or (b) of section 414.

(9) The term "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this Act has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 414(b) of this Act.

(10) The term "Trust Fund" means the General Fiscal Assistance Trust Fund.

(11) The term "Secretary" means the Secretary of the Treasury.

(b) BOUNDARY AND OTHER CHANGES.—When a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of this Act in a way that does not carry out the purposes of this Act, the Secretary shall apply this Act under regulations of the Secretary in a way that is consistent with those purposes.

SEC. 403. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

(a) PAYMENT OF ENTITLEMENTS.—Each State government and unit of general local government is entitled to an amount equal to the amount allocated to such government under this Act for each entitlement period. The Secretary of the Treasury shall pay each amount out of the General Fiscal Assistance Trust Fund.

(b) TIMING OF PAYMENTS.—Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this Act for an entitlement period by the first day of the third month before the beginning of the entitlement period. The Secretary shall pay such allocations in installments. An installment shall be paid at least once a quarter by the fifth day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) ADJUSTMENTS.—The Secretary shall adjust a payment under this Act to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) Reservation for Adjustments.—The Secretary may reserve a percentage (of not more than 0.5 percent) of the amounts otherwise required to be paid under this section for an entitlement period for a State government and units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

SEC. 404. GENERAL FISCAL ASSISTANCE TRUST FUND.

(a) Administration of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the "General Fiscal Assistance Trust Fund". The Secretary of the Treasury shall be the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this Act, may be used only for payments to State governments and units of general local government under this Act; and

(2) remain available until expended.

(b) Appropriations.—(1) The Trust Fund shall consist of amounts appropriated to the Trust Fund.

(2) There are authorized to be appropriated to the Trust Fund for each entitlement period—

(A) $2,500,000,000 for the purpose of making payments to State governments under this Act, and

(B) $1,500,000,000 for the purpose of making payments to units of general local government under this Act.

(c) TRANSFER OF EXCESS TO GENERAL FUND.—The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this Act.

(d) APPROPRIATION AUTHORIZED FOR CERTAIN ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Department of Commerce for each entitlement period $500,000 for the purpose of making the determinations required under sections 402(a)(4) and 407(c)(3).

SEC. 405. QUALIFICATIONS.

(a) IN GENERAL.—Under regulations prescribed by the Secretary, a State government or unit of general local government qualifies for payment under this Act for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this Act;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in such regulations;

(3) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(4) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secretary of Labor shall act on labor standards under this clause in a way that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(5) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary con-

sults with the Comptroller General of the United States);

(6) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this Act or the Comptroller General of the United States reasonably requires to review compliance and operations under section 421(d) of this Act;

(7) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 422(b) of this Act; and

(8) the government will comply with the requirements of sections 413 and 421.

(b) Review by Governors.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a).

(c) Sanctions for Noncompliance.—

(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection

(a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the date that is 60 days after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the State government or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

SEC. 406. SPECIAL ENTITLEMENTS FOR INDIAN TRIBES, ALASKAN NATIVE VILLAGES, AND THE DISTRICT OF COLUMBIA.

(a) ALLOCATION BASED ON POPULATION.—For each entitlement period, the Secretary shall allocate out of the amount authorized for such entitlement period under section 404(b)(2)(B) to—

(1) each Indian tribe and Alaskan Native village having a recognized governing body carrying out substantial governmental duties and powers, and

(2) the District of Columbia,

an amount bearing the same ratio to the special allocation amount for such entitlement period as the population of such tribe or village, or of the District of Columbia, bears to the total population of all of such tribes, villages, and the District of Columbia.

(b) SPECIAL ALLOCATION AMOUNT.—For purposes of this section, the term "special allocation amount" means, for any entitlement period, the amount determined by multiplying—

(1) the total population of all Indian tribes, Alaskan Native villages, and the District of Columbia, by

(2) 150 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by

(B) the total population of the United States.

SEC. 407. STATE AREA ALLOCATIONS FOR UNITS OF GENERAL LOCAL GOVERNMENT.

(a) In General.—

(1) For each entitlement period, the Secretary shall allocate to each State out of the amount authorized for the period under section 404(b)(2)(B) (after deduction of the amount allocated under section 406) an amount bearing the same ratio to such amount authorized (after such deduction) as—

(A) the amount determined by multiplying—

(i) the population of the State, by

(ii) the general tax effort factor of the State, by

(iii) the relative fiscal capacity factor of the State; bears to

(B) the sum of the amounts determined under subparagraph (A) for all the States.

(2)(A) The amount of funds allocated to a State under this subsection for any entitlement period shall equal or exceed an amount determined by multiplying—

(i) the population of such State, by

(ii) 20 percent of an amount determined by dividing—

(I) the amount of funds authorized to be appropriated for such entitlement period under section 404(b)(2)(B), by

(II) the total population of the United States.

(B) The Secretary shall increase the amount allocated to any State under paragraph (1) for any entitlement period by the amount necessary to ensure that the allocation to such State under this subsection for the entitlement period meets the requirements of subparagraph (A). The Secretary shall reduce the allocations made under this subsection to all other States by the amount of such increase in proportion to the amount of funds each of such other States was allocated under paragraph (1) for the entitlement period, but only to the extent the allocations made to each of such other States under this subsection for the entitlement period after such reduction meets the requirements of subparagraph (A).

(b) STATE AREA ALLOCATION TO BE ALLOCATED AMONG UNITS OF GENERAL LOCAL GOVERNMENT.—The Secretary shall allocate the amount allocated to a State under subsection (a) among the units of local government in that State under section 408 or 410.

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 150 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State is equal to the average, during the most recent 3 years, of the sum of—

(i) the gross State product of such State, plus

(ii) other resources which are potentially taxable by such State or units of general local government within such State, but which originate in the economies of other States.

(B) For purposes of subparagraph (A)—

(i) the Secretary of the Treasury shall, by regulation, define the resources that shall be taken into account for purposes of clause (ii) of subparagraph (A), and

(ii) the Secretary of Commerce shall compute gross State products and such other resources on an annual basis.

SEC. 408. ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT IN THE SAME STATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, each unit of general local government in any State (other than the District of Columbia and any Indian tribe and Alaskan Native village which is eligible to receive an entitlement under section 406) shall be allocated for each entitlement period an amount bearing the same ratio to the amount allocated to such State under section 407(a) as—

(1) the amount determined by multiplying—

(A) the population of such unit of general local government, by

(B) the general tax effort factor of such unit of general local government, by

(C) the income factor of such unit of general local government; bears to

(2) the sum of the amounts determined under paragraph (1) for all units of the general local government located in such State.

(b) DEFINITIONS.—For purposes of this section—

(1)(A) The general tax effort factor of a unit of general local government for an entitlement period is the amount determined by dividing—

(i) the revenues of the unit of general local government, by

(ii) the income of such unit.

(B) The revenues of a unit of general local government are the sum of—

(i) the adjusted taxes of the unit of general local government, and

(ii) the other charges imposed by the unit of general local government.

(C) The Secretary shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under subparagraph (A) when—

(i) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(ii) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this subparagraph.

(D) Notwithstanding subparagraph (C)—

(i) the revenues of a township shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all township governments in the State, by

(II) the population of such township government;

(ii) the revenues of a municipal government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all municipal governments in the State, by

(II) the population of such municipal government;

(iii) the per capita revenues of a county government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all county governments in the State, by—

(II) the population of such county government; and

(iv) the per capita revenues of a unified city/county government (as defined by the Bureau of the Census) shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all units of unified city/county governments in the State, by

(II) the population of such unified city/county governments.

(E) The per capita revenues of any unit of general local government is the amount determined by dividing—

(i) the revenues of such unit of general local government, by

(ii) the population of such unit of general local government.

(2)(A) The income factor of a unit of general local government for an entitlement period is equal to the excess, if any, of—

(i) 120 percent of the adjusted State per capita income, over

(ii) the per capita income of such unit of general local government.

If the amount determined under clause (i) does not exceed the amount described in clause (ii), the relative income factor of such unit of general local government is zero.

(B) The adjusted State per capita income is equal to the sum of—

(i) 20 percent of the per capita income of the State in which such unit of general local government is located, plus

(ii) 80 percent of the per capita income of the United States.

SEC. 409. ADJUSTMENTS OF LOCAL GOVERNMENT ALLOCATIONS MADE UNDER SECTION 408.

(a) LIMITATIONS ON PAYMENTS.—

(1) Subject to paragraph (2), the per capita allocation under section 408 of any unit of general local government in a State for any entitlement period shall not

exceed 300 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by—

(B) the total population of the United States.

(2) Notwithstanding any other provision of this Act, if—

(A) the amount allocated under section 408 to any unit of general local government for an entitlement period is less than $5,000; or

(B) such allocation is waived by the governing authority of the unit of general local government,

the Secretary shall not pay such allocation to such unit of general local government.

(b) Any amounts which may not be paid to a unit of general local government by reason of subsection (a) shall be reallocated among the other units of general local government in the same State in proportion to the amounts allocated under section 408 to such other units, but no reallocation shall cause the entitlement of any such other unit to exceed the amount to which that unit is limited by subsection (a).

SEC. 410. ALTERNATIVE DISTRIBUTION OF FUNDS TO LOCAL GOVERNMENTS.

(a) ESTABLISHMENT OF COMMISSION.—

(1) Each State which receives funds under this Act shall establish a commission to investigate—

(A) the public service needs and fiscal capacities of units of general local government in such State, and

(B) alternative means of allocating among the units of general local government in such State the funds allocated to such State under section 407.

(2)(A) Subject to the provisions of subparagraph (B), the membership of the commission which is to be established under paragraph (1) shall be representative of the forms of units of general local government in the State and the populations served by such units of general local government.

(B) At least 50 percent of the membership of the commission which is to be established under paragraph (1) shall represent units of general local government which have income that is less than 90 percent of the per capita income of the United States.

(3) No funds may be paid under this Act to a State government or to a unit of general local government with the State after the date that is 3 years after the date of enactment of this Act until the State gov-

ernment establishes a commission under paragraph (1) that complies with the requirements of this section.

(b) RECOMMENDATIONS.—

(1) The commission established under subsection (a)(1) shall recommend to the legislature of the State, as an alternative to the allocation provided under section 408, a method of allocating among the units of general local government in the State the funds that are allocated to the State under section 407.

(2) The allocation method recommended by the commission under paragraph (1) shall provide what the commission determines to be the best means of allocating funds to reduce, among all units of general local government in the State, the excess of—

(A) the amount of funds each unit of general local government in the State needs to provide public services, over

(B) the fiscal capacity of such unit of general local government.

(c) IMPLEMENTATION OF ALTERNATIVE ALLOCATION METHOD.—If—

(1) a State government enacts a law which provides, as an alternative to the allocation under section 408, a method of allocating among units of general

local government in such State the funds that are allocated to the State under section 407, and

(2) the other requirements of subsections (a) and (b) have been met,

the Secretary shall use such alternative allocation method, in lieu of the provisions of section 408, in allocating among units of general local government in such State the funds allocated to such State under section 407.

SEC. 411. ALLOCATIONS TO STATE GOVERNMENTS.

(a) In General.—For each entitlement period, the Secretary shall allocate to each State government out of the amount authorized for the period under section 404(b)(2)(A) an amount bearing the same ratio to such amount authorized as—

(1) the amount determined by multiplying—

(A) the population of the State, by

(B) the general tax effort factor of the State, by

(C) the relative fiscal capacity factor of the State; bears to

(2) the sum of the amounts determined under paragraph (1) for all the States.

(b) Limitation.—

(1) Notwithstanding any other provision of this Act, the Secretary shall not make any payment under

this Act to a State government for an entitlement period if the amount allocated to such State government under subsection (a) for such entitlement period is less than $1,000,000.

(2) Any amounts which may not be paid to a State government by reason of paragraph (1) shall be allocated among the other State governments in proportion to the amounts allocated to such other State governments under subsection (a).

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 90 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State shall be determined in accordance with section 407(c)(3).

SEC. 412. INFORMATION USED IN ALLOCATION FORMULAS.

(a) USE OF MOST RECENT INFORMATION.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the entitlement period to determine an allocation under this Act. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

(b) POPULATION DATA.—

(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes, except that—

(A) the population of the United States includes the population of the District of Columbia and the population of Indian tribes and native villages; and

(B) the population of a State does not include the population of Indian tribes and native villages.

(2) The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of Public Law 96–369.

(c) ADDITIONAL DATA LIMITATIONS.—The Secretary of the Treasury may not—

(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period;

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation; and

(3) for purposes of allocations under sections 407, 408, 409, and 410, consider any reduction in the amount of adjusted taxes of any State government or unit of general local government if such reduction—

(A) results from a specific economic dislocation which causes—

(i) the closing of places of employment,

(ii) declines in assessed values of, or receipt of taxes from, real property, or

(iii) declines in sales or income tax collections of such government, and

(B) would reduce the allocation of the State government or unit of general local government for an entitlement period by an amount equal to or greater than 20 percent of such allocation for the preceding entitlement period.

SEC. 413. ACCOUNTABILITY.

(a) HEARING ON PROPOSED USE OF FUNDS.—A State government or unit of general local government expending payments under this Act shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(b) DISCLOSURE OF INFORMATION.—

(1) At least 10 days before a hearing required under subsection (a)(1) is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary of the Treasury, a requirement under subsection (a)(1) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(1) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

(2) includes a hearing on the proposed use of a payment received under this Act in relation to the entire budget of the government.

(d) EXCEPTION TO 10-DAY LIMITATION.—When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this Act, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

SEC. 414. PROHIBITED DISCRIMINATION.

(a) General Prohibition.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex if the government receives a payment under this Act.

(b) Additional Prohibitions.—The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government if the government receives a payment under this Act:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.),

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as

the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) of this section do not apply when the State government or unit of general local government shows, by clear and convincing evidence, that a payment received under this Act is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

SEC. 415. DISCRIMINATION PROCEEDINGS.

(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) INFORMAL PRESENTATION OF EVIDENCE.—The State government or unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e) of this section, the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 414(a) of this Act;

(2) the program or activity of the government violated a prohibition described in section 414(b) of this Act; and

(3) any part of that program or activity has been paid for with a payment received under this Act.

(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 414 (a) or (b) of this Act, unless the government has made a compliance agreement under section 417 of this Act.

If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this Act unless, within 10 days after the government receives notice of the decision, the government—

(1) makes a compliance agreement under section 417 of this Act; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State government or unit of general local government is likely to prevail in showing compliance with section 414 (a) or (b) of this Act.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 414 (a) or (b) of this Act, the judge may order payments to the government under this Act terminated; or

(B) complied with section 414 (a) or (b) of this Act, a suspension under section 416(a)(1)(A) of this Act shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) BASIS FOR REVIEW.—In a proceeding under subsection (b), (c), or (d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this Act was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

SEC. 416. SUSPENSION AND TERMINATION OF PAYMENTS IN DISCRIMINATION PROCEEDINGS.

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) The Secretary shall suspend payment under this Act to a State government or unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 415(d)(1) of this Act that the government is not likely to prevail in showing compliance with section 414 (a) and (b) of this Act;

(B) except as provided in section 415(d)(2)(B) of this Act, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 414 (a) or (b) of this Act, unless the government makes a compliance agreement under section 417 of this Act by the 30th day after the decision; or

(C) when required under section 415(c) of this Act.

(2) Except as provided in section 415(d)(2) of this Act, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) Lifting of Suspensions and Terminations.—When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 417(a)(1) of this Act; or

(B) a compliance agreement under section 417(a) of this Act;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 415(a) of this Act;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 415(d)(1) of this Act), that the government has complied with section 414 (a) and (b) of this Act; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 414 (a) or (b) of this Act.

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a State government or unit of general local government of payments terminated under section 415(d)(2) of this Act only when the decision resulting in the termination is reversed by an appellate court.

SEC. 417. COMPLIANCE AGREEMENTS.

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 414 (a) or (b) of this Act; or

(2) between the Secretary and such chief executive officer.

(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 414 (a) and (b) of this Act;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 414 (a) or (b) of this Act; and

(3) may be a series of agreements that dispose of those matters.

(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 415(b) of this Act, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 414 (a) or (b) of this Act. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

SEC. 418. ENFORCEMENT BY THE ATTORNEY GENERAL OF PROHIBITIONS ON DISCRIMINATION.

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 414 (a) or (b) of this Act. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 414 (a) or (b) of this Act, including an order suspending, terminating, or requiring repayment of, payments under this Act or placing additional payments under this Act in escrow pending the outcome of the action.

SEC. 419. CIVIL ACTION BY A PERSON ADVERSELY AFFECTED.

(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—When a State government or unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this Act, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 414(d) of this Act. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this Act; or

(2) does not issue a decision on the complaint.

(c) Authority of Court.—In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this Act or placement of additional payments under this Act in escrow pending the outcome of the action; and

(2) to enforce compliance with section 414 (a) or (b) of this Act, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 414 (a) or (b) of this Act, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

SEC. 420. JUDICIAL REVIEW.

(a) APPEALS IN FEDERAL COURT OF APPEALS.—A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 405(c) of this Act, suspending payments under section 416(a)(1)(B) of this Act, or terminating payments under section 415(d)(2)(A) of this Act, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action.

The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

SEC. 421. AUDITS, INVESTIGATIONS, AND REVIEWS.

(a) AUDIT REQUIREMENTS.—Except as otherwise provided in this section, a State government or unit of general local government which receives a payment under this Act shall have an audit made in accordance with chapter 75 of title 31, United States Code.

(b) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive the requirement of subsection (a) for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year cannot be audited, and the government shows substantial progress in making the statements auditable.

(c) INVESTIGATIONS BY SECRETARY.—

(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 419(b) of this Act, a determination by a State or local administrative agency, or other information about a possible violation of this Act;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this Act; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 414 (a) or (b) of this Act or other provision of this Act.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(d) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this Act.

SEC. 422. REPORTS.

(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year, the Secretary personally shall report to Congress on—

(1) the status and operation of the Fiscal Assistance Trust Fund during the prior fiscal year; and

(2) the administration of this Act, including a complete and detailed analysis of—

(A) actions taken to comply with sections 414, 415, 416, 417, and 418, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this Act have complied with sections 405 and 421 (a), (b), and (d) of this Act, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 421 (a), (b), and (d);

(C) the way in which payments under this Act have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this Act and recommendations for legislation to remedy the problems.

(b) REPORTS BY STATE GOVERNMENTS AND UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

(1) At the end of each fiscal year, each State government or unit of general local government receiving a payment under this Act shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a State government or unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) Regulations.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

TITLE V—BLOCK GRANTS TO STATES FOR LONG-TERM HEALTH CARE SERVICES

SEC. 501. ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE.

Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new sections:

"ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE

"Sec. 1921. (a) Termination of Program of Reimbursement.—Notwithstanding any other provision of law—

"(1) no provision of this title may, with respect to any State plan referred to in section 1902, be construed as requiring any State to provide for medical assistance for long-term health care; and

"(2) the Secretary may not, under section 1903, pay any amount to any State with respect to any amount expended by a State in providing medical assistance for long-term health care.

"(b) Establishment of Block Grant Program.—

"(1) The Secretary shall, for each fiscal year, pay to any State described in paragraph (3) an amount determined in accordance with section 1922. Such amount may be used by a State only for the provision of long-term health care. Subject to paragraph (2), each State may determine such criteria for eligibility for long-term health care as the State involved determines to be appropriate.

"(2) A State must extend eligibility for long-term care to individuals entitled to medical assistance under the State plan approved under section 1902 before it may extend eligibility for such care to other categories of individuals.

"(3) Any State referred to in paragraph (1) is any State that—

"(A) with respect to health care and services other than long-term health care, has a plan approved under this title; and

"(B) provides to the Secretary such information as the Secretary determines to be necessary to make the computation described in section 1922.

"(c) DEFINITION OF LONG-TERM HEALTH CARE.—For purposes of this section, the term 'long-term health care' means skilled nursing facility services, intermediate care facility services, inpatient psychiatric hospital services, home health care services and other services necessary to prevent or terminate the institutionalization of eligible individuals.

"(d) EFFECTIVE DATE.—This section shall take effect on the expiration of the 2-year period beginning on the 1st day of the 1st fiscal year beginning after the date of the enactment of the Federalism Act of 1986.

"COMPUTATION OF AMOUNT OF BLOCK GRANT FOR LONG-TERM HEALTH CARE

"SEC. 1922. (a) IN GENERAL.—With respect to the State involved, the amount referred to in section 1921(b) is the lesser of—

"(1) an amount described in subsection (f); and

"(2) an amount equal to the sum of—

"(A) an amount equal to the product of—

"(i) the primary adjusted Federal medical assistance percentage (as defined in subsection (b)) for the fiscal year; and

"(ii) the qualifying amount (as defined in subsection (c)); and

"(B) an amount equal to the product of—

"(i) the secondary adjusted Federal medical assistance percentage (as defined in subsection (d)) for the fiscal year; and

"(ii) the compensatory amount (as defined in subsection (e)).

"(b) Definition of Primary Adjusted Federal Medical Assistance Percentage.—For purposes of this section:

"(1) The term 'primary adjusted Federal medical assistance percentage' means a percentage equal to the sum of the Federal medical assistance percentage and the primary adjustment percentage for the fiscal year.

"(2) The term 'primary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 3 percent and the primary adjustment percentage for the immediately preceding fiscal year.

"(c) Definition of Qualifying Amount.—For purposes of this section:

"(1) The term 'qualifying amount' means an amount equal to the larger of—

"(A) the sum of the 5 adjusted health service category amounts, or

"(B) 50 percent of the total amount expended by the State involved in the base year for all 5 adjusted health service categories.

"(2) The term 'health service category' means each of the following:

"(A) Skilled nursing facility services.

"(B) Intermediate care facility services with respect to mentally retarded individuals or individuals with related conditions.

"(C) Intermediate care facility services other than the services described in subparagraph (B).

"(D) Inpatient psychiatric hospital services.

"(E) Home health care services.

"(3) The term 'adjusted health service category amount' means—

"(A) with respect to a health service category described in subparagraph (A), (B), (C), or (D) of paragraph (2), the product of—

"(i) an amount equal to the total amount expended in the base year by the State involved for such category, and

"(ii) the national per capita care day ratio for such category; and

"(B) with respect to the health service category described in subparagraph (E) of paragraph (2), an amount equal to the total amount expended in the base year by the State involved for such category.

"(4) The term 'base year' means the fiscal year immediately preceding the fiscal year in which section 1921 takes effect.

"(5) The term 'care day' means a day on which a service referred to in paragraph (2) has been provided.

"(6) The term 'national per capita care day ratio' means, with respect to the health service category involved, an amount equal to the lesser of 1.5 and—

"(A) the national median number of care days provided per individual in the base year; divided by

"(B) the mean number of care days per individual provided in the base year by the State involved.

"(7) The term 'national median number' means, with respect to the category of health service involved, the median of the respective means of care days per individual provided in the base year by the States.

"(d) DEFINITION OF SECONDARY ADJUSTED FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of this section:

"(1) The term 'secondary adjusted Federal medical assistance percentage' means a percentage equal to the difference between the Federal medical assistance percentage and the secondary adjustment percentage for the fiscal year.

"(2) The term 'secondary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 2.5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 1.5 percent and the secondary adjustment percentage for the immediately preceding fiscal year.

"(e) DEFINITION OF COMPENSATORY AMOUNT.—

"(1) For purposes of this section, the term 'compensatory amount' means the difference between—

"(A) the aggregate total of amounts expended in the base year by the State involved for the 5 health service categories; and

"(B) the qualifying amount for such State.

"(2) The compensatory amount may be a negative number.

"(f) LIMITATION ON AMOUNT OF GRANT.—

"(1) The amount referred to in subsection (a)(1) is the sum of—

"(A) an amount equal to the product of 90 percent and the qualifying amount; and

"(B) an amount equal to the product of—

"(i) the percentage described in paragraph (2); and

"(ii) the greater of 0 and the compensatory amount.

"(2) The percentage referred to in paragraph (1)(B)(i) is a percentage equal to the difference between—

"(A) the Federal medical assistance percentage; and

"(B) the product of—

"(i) 50 percent; and

"(ii) the difference between 90 percent and the Federal medical assistance percentage.

"(g) ADJUSTMENT BY SECRETARY OF QUALIFYING AMOUNT.—

"(1) If the Secretary makes the determination described in paragraph (2), the Secretary shall increase the qualifying amount of the State involved to the extent determined by the Secretary to be appropriate.

"(2) The determination referred to in paragraph (1) is a determination that—

"(A) with respect to the State involved, the number of poor elderly individuals residing in the State has increased, or

"(B) the cost of providing long-term health care has increased, since the base year due to inflation and other factors.

"STATE ADMINISTRATION

"SEC. 1923. Prior to expenditure by a State of payments made to it under section 1921 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under such section, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.".

SEC. 502. REPORT BY SECRETARY WITH RESPECT TO TECHNICAL AND CONFORMING CHANGES.

With respect to the amendments to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made by this Act, the Secretary of Health and Human Services shall, before the expiration of the 180-day period beginning on the date of the enactment of this Act, submit to the Congress a report describing such technical and conforming changes in such title XIX as the Secretary determines to be appropriate.

National Governors' Association

Bill Clinton
Governor of Arkansas
Chairman

Raymond C. Scheppach
Executive Director

STATEMENT OF

THE HONORABLE MICHAEL N. CASTLE

GOVERNOR OF DELAWARE

Chairman, Committee on Human Resources
National Governors' Association

before the

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

WELFARE AND FEDERALISM REFORM

September 26, 1986

HALL OF THE STATES · 444 North Capitol Street · Washington, D.C. 20001-1572 · (202) 624-5300

Good Morning Senators. I'm Governor Mike Castle of Delaware and it's a pleasure to be here today as Chairman of both the Committee on Human Resources and of the Welfare Prevention Task Force of the National Governors' Association to talk with you about the ideas embodied in the Federalism Act of 1986. Senator Evans was kind enough to come to the winter meeting of the Governors Association and give us an excellent overview of the report "To Form a More Perfect Union." On behalf of the Governors I want to express our appreciation and admiration to the Senator for the months of careful thought that have gone into the development of this legislative proposal which implements most of the critical recommendations from that report.

Over the past two decades, the National Governors' Association has considered numerous proposals for the reform of both the welfare and the federal system. NGA's current federalism policy statement, adopted in March 1983 is based on a clear understanding of the fiscal crisis which faces the federal government and of the limits to reform which emerged as a result of the comprehensive reform initiatives of 1982. It recognizes the need to limit the growth of federal domestic spending and to sort out responsibilities among the levels of government. At the same time, it strongly opposes shifting responsibilities from the federal government to the states without an equal adjustment of fiscal resources.

It is no small concern to Governors that, given the federal deficit problems, and without a true cooperative attempt to create a new federalism, Congress will simply continue to mandate responsiblities to the states without providing the fiscal ability to carry out those mandates. NGA policy supports the efforts of Sen. Mattingly to amend the Congressional Budget Act to create a point of order against any legislation except budget sequestration bills that would impose more then $50 million in annual costs to state and local governments. We also support Senators Durenberger's and Chiles's plan to offer Senate Bill 2387 which would require the federal government to reimburse state and local governments for costs due to future mandates.

The Governors recognize that current fiscal constraints on the federal government may affect the pace of reorganization and revitalization of the federal system. At the same time, Governors are convinced that these constraints are not a reason to abandon current federal grants without increasing federal funding of functions, notably welfare, which ought to be a prime federal responsibility. And it is welfare I really want to talk about because it is welfare reform that will drive the Governors' approach to any further federalism negotiations.

Welfare reform is the important priority for the National Governors' Association. Early last spring, Governor Lamar Alexander, then Chairman of NGA, appointed a task force of eight Governors co-chaired by Governor Bill Clinton of Arkansas, and myself, to develop a comprehensive welfare reform policy to guide the Governors through the coming debate. From April through August, our task force, which promptly renamed itself the welfare prevention task force, concentrated on the development of a strategic plan for welfare prevention which Governors can use both individually and collectively to focus state and, where available, federal resources, on policies and programs which we believe will, over time, reduce the need for dependency on the welfare system or, at least, reduce the duration of that dependency.

We focused on strategies we believe to be largely within our control as Governors. In fact, Governor Clinton, now the Chairman of NGA, will continue our focus on welfare prevention by asking each Governor to serve on one of five task forces; four of these will focus on gubernatorial leadership in developing state action plans to implement programs designed to alleviate the problems associated with teen pregnancy, alcohol and drug abuse, school drop-outs, and adults with poor literacy skills.

The fifth task force which I continue to chair, is rethinking our current policy on basic income assistance. Our longstanding policy on welfare suggests that one appropriate purpose of a welfare system is, as it was originally, the protection and provision of basic needs to a vulnerable segment of our people for whom prevention strategies are too late. The present policy can be summarized as follows:

- A comprehensive national income security program including a minimum benefit level related to the cost of meeting some national measure of the basic needs for food, shelter, transportation, clothing and health care; with

- Federal financial responsibility for this basic set of benefits to ensure equitable treatment across state lines;

- Administrative simplicity and program coordination;

- Greater emphasis on preparing and assisting impoverished adults to move toward self-sufficiency.

While we believe that our policy continues to provide fundamentally good guidelines for a strong, rational income security program, we have begun to reexamine several aspects of that policy in light of our most current knowledge about the effects of our present welfare system on the lives of the people who depend on it. Several key questions emerge:

- How do we design a system which embodies the notion of a social contract between the individual and society? We have come to believe that it is important to recognize two fundamental principles inherent in this idea. First, a social contract is the embodiment of the notion that responsibility flows in two directions--the individual to strive for self-sufficiency and the society to remove the barriers to that achievement. Secondly, the notion of a social contract recognizes that the system serve individuals with a wide range and variety of needs. We have learned from the programs that there is real value in the notion of service prescriptions and contracts tailored to an individual's needs and circumstances.

- Does a national mimimum benefit level, which does not take into account state and regional differences in the cost of providing basic necessities make sense? Could we save money if we used a national formula into which states could plug their specific needs and numbers?

- Is full federal funding of income security desirable or do states need to maintain enough of an investment in income security programs to ensure vigorous continued pursuit of education, employment and training opporutnities?

- What system design best promotes self-sufficiency by linking the income security system to a strong mandate to work? How can we assure that working is always better for a family than cash assistance?

- How do we design a system which continues to encourage a strong state investment in good prevention programs?

These are some of the critical questions we will be asking as we develop a comprehensive policy proposal to present to our Association. While guidelines will emerge as we release an interim report of our progress in November, our final package will not come before the full Association until February.

It is, therefore, particularly heartening to notice that in the introduction to the legislation you have invited me here to discuss today there is a statement that the Federalism Act of 1986 is a proposal which will provide "a responsible, achieveable middle ground for the coming debate over welfare reform and family policy." We intend to be full participants in the coming debates over welfare reform. And, while we are committed to federal budget deficit reduction, we are also vitally interested in ensuring that income security proposals be built on sound public policy as well as on a concern for the numbers.

Over the next several months we will be working closely with our state human service commissioners, our experts in this business, who, through their Asssociation, the American Public Welfare Association, have developed a proposal for a rational approach to income security which begins to answer many of the questions I have raised. We will also be working with our state budget officers who through their association, the National Association of State Budget Officers, have developed a federalism proposal with a comprehensive devolution package to finance welfare reform. We believe that the potential marriage of these diverse talents will produce the best collective thinking from the states and enable Governors to participate with assurance in the debates to come.

We look forward to working together to improve the comprehensive and visionary federalism proposal being made here today. Working cooperatively, Governors, Congress, and the Administration can and must create a social order based on the time-tested value of individual dignity, responsibility, and independence in a society that cares for its least fortunate and provides an atmosphere of opportunity and hope. The time is now. Let us get to it.

STATEMENT OF SENATOR DANIEL J. EVANS
THE FEDERALISM ACT OF 1986

September 26, 1986

I. Introduction

Mr. Chairman, I am pleased to have the opportunity to testify before the Subcommittee on a subject that is both timely and essential to the continued well-being of our system of government. A thorough review of the effectiveness of our intergovernmental relationship is long overdue.

Today, I am here to outline a comprehensive proposal for reform of the federal-state-local partnership. At the outset, I emphasize that it is offered with the intention of serving as a working draft. I am anxious to work with the Subcommittee, other Members of Congress, Governors, Legislators, and county and city officials in the coming months to fine-tune and strengthen the effectiveness of this legislation. This package, which I intend to introduce before the end of the 99th Congress, would implement the recommendations of the Committee on Federalism and National Purpose.

II. New Federalism Report

I had the privilege of co-chairing the Committee with Governor Robb, formed in 1984. The distinguished Chairman also served on this Committee along with other representatives from all levels of government. Among the broad and diverse viewpoints represented, we completed our work with a report, To Form a More Perfect Union which has served as the foundation for thislegislative proposal.

As a prelude to discussing my proposal, I wish to summarize briefly the Committee's assessment of the the existing federal-state structure. At the root of all the ills plaguing our system of federalism is the irrational and illogical nature of intergovernmental relationships. In addition to this nonsensical organization, there is a fundamental lack of trust among various levels of government. Both symptoms have led to excessive regulations, duplication of efforts and a convoluted division of responsibilities. Instead of recognizing the new and advanced capabilities of state and local governments to administer programs requiring individualized services, the federal government has maintained a heavy and burdensome presence. It appears that Alexis de Tocqueville's omen -- now well over one-hundred years old -- rings true. He warned against the dire consequences of **"combining centralized government with that of centralized administration; uniting the habit of executing its commands to**

the right of commanding; and establishing the general principles of government and descending to the details of their application...freedom would soon be banished from the New World."

The Committee, with full view of the existing short-comings and de Tocqueville's warnings, recommended the establishment of a new federal-state partnership. The appropriate role for the federal government is for it to maintain a commitment to fundamental needs requiring national uniformity. At the same time, it should relinquish control of the responsibilities best executed by the states. Specifically, states and localities should assume full financial, policy and administrative responsibility for many community development, local infrastructure and social service programs.

We concluded that the more than 200 remaining intergovernmental programs funded by the federal government at less than $100 million either should be consolidated into block grants or absorbed into existing programs. The remaining shared programs should be directed more toward localities with the most needy. In order for states to meet their present and future service obligations, the federal government should provide general support grants targeted to states with low fiscal capacity. Until the effects of devolution can be assessed adequately, a transitional federal assistance program should be established and administered by states for localities with the least fiscal capacity.

III. Implementation

There are two considerations that should be recognized at the outset of any legislative reform effort. First, proper and effective reform will take several years. Second, with the critical demands of deficit reduction, accomplishment of these objectives must be, at a minimum, revenue neutral. Our initial proposals and options meet these concerns.

The first prong of the proposal would establish more uniform eligibility and benefits for Medicaid. In year one of our blueprint, we extend coverage to all children 5 years of age and under as well as pregnant women living in families with income below the poverty line. The federal government would pay 80% of the program costs for these two groups in year one and 90% thereafter.

In the second year, the medical component of medicaid would be made more uniform and broader nationwide. For example, the 14 states who, currently, do not provide medicaid to all SSI recipients would be required to do so. In addition, the federal government would increase its reimbursement rate for state medicaid costs by 2 percentage points. Federal payments to states would be capped at 90 percent of the medicaid costs in each state.

The gross disparity in benefits nationwide is a disgrace. It is shameful that a poor family of four in one region of the country will receive assistance up to five times as great as a similar family elsewhere. Afterall, to be poor and hungry in New York or California is not a lot different than being poor and hungry in Mississippi, Maine or Missouri.

Significant steps to rectify this inequity would be taken in year 2 when we would establish a national minimum AFDC benefit for all states. This benefit would equal 50 percent of poverty level income when combined with the cash value of food stamps. This would effect about 9 states. By 1994, the federal minimum commitment would be 62 percent of poverty, at or above the maximum combined AFDC and food stamp benefits currently in effect in 34 states.

The AFDC/Unemployed Parent program would be required in all states. Currently, 26 states participate in this program. This mandatory requirement is necessary because the existing program encourages the separation of parents to qualify for benefits. This policy is anti-family and must be changed.

We also must pursue initiatives aimed at enhancing the employment prospects of AFDC recipients. We should consider a federal mandate that states administer a program to encourage AFDC recipients to prepare for, seek and accept work. Broad flexibility should be reserved for states to develop the specific design of such a program. Further, we recommend consolidation of existing federal work/welfare programs into a single block grant to be administered by HHS. Expansion of funding to states in future years should be tied, in part, to the effectiveness of state programs. These employment requirements, it is important to emphasize, would begin one year prior to increasing the federal role in AFDC.

A comprehensive solution to the long-term care crisis is at least a decade away. Within the framework of our proposal, however, we can take an important first step. Specifically, in year 3 we would create a block grant based on the current federal contribution to long term care. This would go a long way toward meeting some of the cost and care concerns generated by the current system.

As we move ahead with our reform efforts we undoubtedly will encounter states with very low tax capacity that simply cannot help themselves. Thus, "fiscal capacity grants" are integral our proposal. Those states with low fiscal capacity would receive grants that would help them provide an adequate level of public services. In addition, localities would be allocated grants to cushion the impact of program terminations in communities with limited resources.

Mr. Chairman, the work of this Subcommittee provides much experience in crafting effective targeted fiscal assistance programs. S. 2037, which was introduced by the distinguished Chairman, provides a firm foundation from which to build. By utilizing appropriate measures of need and fiscal capacity, the legislation would target funds to those communities with the greatest needs.

In exchange for the federal government's establishment of national benefit levels and eligibility, the states would assume responsibility for most local community development, infrastructure and personal social service programs. State and local governments would be allowed to replace federal spending for programs with its own that are more cost-effective and responsive to local priorities.

We have explored various options for a combination of program terminations that would achieve a fiscally-neutral proposal. Although we have developed an initial list of such programs, alternatives can and will be explored. With further coalition building and additional member support, a more convincing and acceptable list will emerge.

Program terminations pose difficult choices for Congress. Nevertheless, it can become much more palatable when such a proposal represents a fair give and take between all levels of government. We have restricted ourselves to offering status quo budgets that respond to the current fiscal year needs but not the next. Simply maintaining existing programs at yearly spending freezes or reductions of 5 or 10 percent does nothing more than strangle and thwart the purpose of many important programns. I believe Congress and the President can and must do a more effective job.

IV. Conclusion

In conclusion, Mr. Chairman, I must emphasize that the proposals I have outlined are intended as a working draft. I place them on the table with full recognition that further discussion, review and fine tuning are necessary before we have a sound and effective reform package. I am hopeful that the proposal will provide an infrastructure for further debate. It supports a diverse combination of interests which are essential to further deliberations. The proposal terminates numerous federal programs and allows states and localities to determine their own priorities. It creates greater nationwide uniformity in the benefits provided by federal safety-net programs and it promises to place welfare recipients in jobs. It removes the tangled web of regulation between federal, state and local governments. It levels the fiscal disparities between the poorest and wealthiest states. Finally, it reforms our intergovernmental structure and better defines and makes clear future budget decisions the we must address.

Our founding fathers envisioned a shared system of government with a logical and productive division of responsibilities. It is time that we reexamine the federal-state partnership and make necessary improvements to ensure its continued vitality. I can think of no better bicentennial birthday present for this nation in 1989 than to reestablish the essential partnership between states and the union that gave birth to our Constitution.

- Thank you.

NATIONAL
ASSOCIATION
of
COUNTIES

440 First St. NW, Washington, DC 20001
202/393-6226

STATEMENT OF

THE HONORABLE JOHN HORSLEY

CHAIRMAN, KITSAP COUNTY, WASHINGTON

BOARD OF COMMISSIONERS

AND

PRESIDENT, NATIONAL ASSOCIATION OF COUNTIES

BEFORE THE

INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE

SENATE GOVERNMENT AFFAIRS COMMITTEE

ON BEHALF OF

THE NATIONAL ASSOCIATION OF COUNTIES

Washington, D.C.

September 26, 1986

MR. CHAIRMAN:

MY NAME IS JOHN HORSLEY. I AM CHAIRMAN OF THE KITSAP COUNTY, WASHINGTON BOARD OF COMMISSIONERS AND PRESIDENT OF THE NATIONAL ASSOCIATION OF COUNTIES (NACo). FOR YOUR INFORMATION, KITSAP COUNTY IS LOCATED ON THE OLYMPIC PENINSULA IN WESTERN WASHINGTON STATE, ACROSS PUGET SOUND FROM SEATTLE.

I AM PLEASED TO BE HERE TODAY TO TESTIFY BEFORE THE INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE ON THE EVANS-DURENBERGER PROPOSAL ON FEDERALISM AND I WANT TO COMMEND CHAIRMAN DURENBERGER FOR HOLDING THIS HEARING. I BECAME NACo'S PRESIDENT IN JULY AT OUR ANNUAL CONFERENCE AND THIS IS MY FIRST APPEARANCE BEFORE A CONGRESSIONAL COMMITTEE AS PRESIDENT.

OVER THE YEARS, NACo HAS BEEN VERY COMFORTABLE WORKING WITH THE MEMBERS AND STAFF OF THE INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE AND HAS FELT THAT WE COULD DEPEND ON MEMBERS OF THIS SUBCOMMITTEE TO HAVE A PARTICULARLY SENSITIVE UNDERSTANDING OF THE CONCERNS OF LOCAL AND, IN PARTICULAR, COUNTY GOVERNMENT.

*THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENT. THE GOALS OF THE ORGANIZATION ARE TO: IMPROVE COUNTY GOVERNMENT; SERVE AS THE NATIONAL SPOKESMAN FOR COUNTY GOVERNMENT; TO ACT AS LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL-AID SYSTEM.

NACo HAS ALWAYS HAD A KEEN INTEREST AND TAKEN AN ACTIVE ROLE IN THE ONGOING DEBATE ON FEDERALISM. I HAVE ATTACHED A COPY OF NACo'S POLICY IN FEDERALISM TO MY STATEMENT (ATTACHMENT A). FOR THAT REASON, WE WELCOMED BOTH THE FORMULATION AND REPORT ENTITLED, TO FORM A MORE PERFECT UNION, OF THE COMMITTEE ON FEDERALISM AND NATIONAL PURPOSE. I WANT TO COMMEND SENATOR EVANS, GOVERNOR ROBB AND THE OTHER MEMBERS OF THE COMMISSION FOR TAKING A SERIOUS LOOK AT HOW THE FEDERAL-STATE-LOCAL PARTNERSHIP CAN WORK BETTER. SHORTLY AFTER THE REPORT WAS ISSUED, WE CIRCULATED IT TO MEMBERS OF THE INTERGOVERNMENTAL AFFAIRS AND LOCAL DETERMINATION STEERING COMMITTEE, NACo'S POLICY COMMITTEE WHICH DEALS WITH SUCH ISSUES. THE REPORT HAS BEEN DISCUSSED AND DEBATED AT SEVERAL MEETINGS OF THIS COMMITTEE. WE ALSO WERE PRIVILEGED TO HAVE SENATOR EVANS ADDRESS A SESSION AT OUR MARCH, 1986 LEGISLATIVE CONFERENCE ON THE SUBJECT OF THIS REPORT.

THE CREDIBILITY OF YOUR EFFORT IS UNDERSCORED BY THE COMMISSION'S STATED DESIRE TO MAKE ITS PROPOSAL REVENUE NEUTRAL IN TERMS OF FEDERAL EXPENDITURES. GIVEN WHAT HAS OCCURRED OVER THE LAST SEVERAL YEARS, WE WELCOME YOUR COMMITMENT ON THAT SUBJECT. NACo BELIEVES THAT A MISGUIDED VIEW OF THE FEDERAL-STATE-LOCAL PARTNERSHIP IN RECENT YEARS HAS RESULTED IN A BACKING AWAY FROM THAT RELATIONSHIP BY THE FEDERAL GOVERNMENT -- BETWEEN 1980-1985 GRANTS TO STATE AND LOCAL GOVERNMENTS DECREASED BY 8.3 PERCENT IN CONSTANT DOLLARS. HOWEVER, AS YOU MAY KNOW SUCH GRANTS ARE SUBDIVIDED INTO TWO CATEGORIES -- GRANTS TO INDIVIDUALS, SUCH AS AFDC AND MEDICAID, WHICH ACTUALLY INCREASED

IN THAT PERIOD BY 20.4 PERCENT, AND GRANTS TO STATE AND LOCAL PROGRAMS, WHICH DECREASED BY 23.5% BETWEEN 1980-85. IT IS INTERESTING TO NOTE THAT WHILE FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENT DECREASED SUBSTANTIALLY OVER THAT TIME SPAN AND THIS REDUCTION IN ASSISTANCE WAS UNDERTAKEN IN THE NAME OF STATE AND LOCAL GOVERNMENT TAKING ITS FAIR SHARE IN THE BATTLE TO REDUCE THE DEFICIT, TOTAL FEDERAL EXPENDITURES GREW 23.3 PERCENT DURING THE SAME PERIOD. SUFFICE IT TO SAY THAT NACo NOW VIEWS WITH A SCEPTICAL EYE ANY PROPOSAL TO FURTHER REDUCE THE FEDERAL FINANCIAL SUPPORT OF PROGRAMS WHEN IT IS JUSTIFIED BY THE CLAIM THAT IT IS OUR SHARE OF DEFICIT REDUCTION. IN ADDITION, THE OTHER RATIONALE FREQUENTLY USED FOR THE ELIMINATION OF A PROGRAM-THAT THE PROGRAM IS BETTER FUNDED AT THE LOCAL LEVEL--SEEMS TO US TO BE OVERLY SIMPLISTIC.

IN GENERAL, IT IS FAIR TO SAY THAT THE PROPOSAL BEFORE US IS DESIGNED TO HAVE THE FEDERAL GOVERNMENT ASSUME MORE FINANCIAL RESPONSIBILITY FOR GRANTS TO INDIVIDUALS. ACCOMPANYING SUCH ACTION IS THE CONTINUED MOVE AWAY FROM STATE AND LOCAL PROGRAMS WHERE THERE HAS BEEN A HISTORIC FEDERAL ROLE. LET ME TAKE A FEW MINUTES TO COMMENT ON SOME OF THE SPECIFICS OF THE PROPOSAL.

MEDICAID

FEDERALIZATION OF MEDICAID IS CONSISTENT WITH NACo POLICY WHICH URGES NATIONAL FINANCING OF HEALTH CARE. INCREASING THE

FEDERAL MATCH WILL HELP EQUALIZE AVAILABLE RESOURCES BETWEEN RICH AND POOR STATES, BUT SHOULD BE COUPLED WITH UNIFORM STANDARD BENEFITS. EROSION OF THE ENTITLEMENT CHARACTER OF MEDICAID--WHETHER AS PART OF A "SWITCH-BACK" PROPOSAL OR UNDER THE NAME OF COST CONTAINMENT CAPITATION PAYMENTS--HAS HISTORICALLY BEEN UNACCEPTABLE TO NACo.

THE AFDC PROGRAM

NACo POLICY CALLS FOR THE GRADUAL REPLACEMENT OF AFDC, AFDC-UNEMPLOYED PARENT, GENERAL ASSISTANCE, AND FOOD STAMP PROGRAMS WITH AN INCOME SECURITY PROGRAM FOR PERSONS UNABLE TO WORK. REPLACING THESE PROGRAMS WITH AN OVERALL INCOME SECURITY PROGRAM WOULD REDUCE ADMINISTRATIVE COMPLEXITY, AND SAVE MONEY AT ALL LEVELS OF GOVERNMENT.

IN THE INTERIM, NACo SUPPORTS A REVISED AFDC PROGRAM THAT ESTABLISHES UNIFORM ELIGIBILITY STANDARDS WITH REGIONAL ADJUSTMENTS FOR COSTS OF LIVING. SINCE POVERTY IS A NATIONAL PROBLEM, WE HAVE SUPPORTED INCREASED FEDERAL FINANCIAL PARTICIPATION. WE ALSO SUPPORT MANDATING NATIONAL MINIMUM BENEFIT STANDARDS, PROVIDED THAT SUCH A MANDATE IS BACKED WITH FEDERAL DOLLARS.

LONG TERM CARE

LONG TERM CARE COSTS COMPRISE THE LARGEST SEGMENT OF THE CURRENT MEDICAID PROGRAM. NACo IS OPPOSED TO THE CREATION OF A SEPARATE LONG-TERM CARE BLOCK GRANT, BECAUSE IT IS THE CONVERSION OF AN ENTITLEMENT PROGRAM INTO ONE CAPPED BY THE AMOUNT OF THE BLOCK GRANT. MEDICAID IS CURRENTLY OFF-BUDGET AND NOT SUBJECT TO GRAMM-RUDMAN-HOLLINGS. A BLOCK GRANT WOULD BE SUBJECT TO SEQUESTRATION PRESUMABLY AND ANY DECREASE IN FUNDING LEVELS FOR LONG-TERM CARE WOULD RESULT IN AN INCREASE IN UNCOMPENSATED CARE COSTS TO BE BORNE BY COUNTIES AS THE PROVIDERS OF LAST RESORT. THE GREYING OF AMERICA, COMBINED WITH THE POTENTIAL FOR VAST NUMBERS OF AIDS VICTIMS IN LONG TERM CARE (PARTICULARLY AFTER A LIFE-PROLONGING DRUG IS FOUND), SUGGEST THAT WE ARE ONLY TOUCHING THE TIP OF THE LONG-TERM CARE ICEBERG. COUNTIES COULD POTENTIALLY INHERIT A PROBLEM OF IMMENSE MAGNITUDE AS A "TRADE-OFF" FOR 90% FEDERAL ASSUMPTION OF THE RESIDUAL PROGRAM UNDER MEDICAID.

WORK-WELFARE

NACo HAS LONG SUPPORTED MEANINGFUL PROGRAMS FOR ABLE-BODIED AFDC RECIPIENTS. AT THE SAME TIME, WE CONSISTENTLY OPPOSE FEDERAL WORKFARE MANDATES. WE WOULD SUPPORT BETTER COORDINATION AND, PERHAPS, AS PROPOSED IN THE EVANS-DURENBERGER PROPOSAL, CONSOLIDATION OF THE EXISTING FEDERAL WORK/WELFARE PROGRAMS INTO A SINGLE GRANT IF IT IS CLEAR THAT THE CONSOLIDATION IS NOT THE FIRST STEP TOWARDS KILLING THE PROGRAMS.

A LOT OF INNOVATIVE WORK PROGRAMS ARE BEING DEVELOPED AT THE STATE AND LOCAL LEVEL WITHOUT A FEDERAL MANDATE TO DO SO. WE NEED TO SEE SPECIFIC LEGISLATIVE LANGUAGE DETAILING HOW THE FEDERAL GOVERNMENT WOULD DECIDE WHAT QUALIFIES AS AN ACCEPTABLE STATE PLAN BEFORE WE COULD SUPPORT ANOTHER MANDATE, REGARDLESS OF HOW MUCH FLEXIBILITY MAY BE INITIALLY PROMISED.

TARGETED ASSISTANCE GRANTS

NACo HAS MADE GENERAL REVENUE SHARING (GRS) ITS TOP PRIORITY FOR THE LAST SEVERAL YEARS. TO COUNTIES, IT IS THE ULTIMATE PROGRAM FOR THOSE WHO BELIEVE IN FLEXIBILITY OF THE FEDERAL-LOCAL INTERGOVERNMENTAL PARTNERSHIP. THE FEDERAL GOVERNMENT RETURNS SOME OF THE FUNDS COLLECTED FROM ALL CITIZENS TO LOCAL GOVERNMENT TO MEET, IN THEORY, THE NEEDS OF ITS CITIZENS AS DETERMINED BY THOSE OFFICIALS CLOSEST TO THEM -- ELECTED LOCAL OFFICIALS. IN REALITY, MUCH OF THE GRS FUNDING GOES TOWARD PAYING THE COST OF FEDERAL MANDATES. THAT IS FINE, TOO, BECAUSE ALL LOCAL GOVERNMENTS INCUR UNREIMBURSED COSTS OF FEDERAL MANDATES. THE FISCAL CAPACITY GRANT MOVES AWAY FROM THE THEORETICAL UNDERPINNINGS OF GRS. NACo CONTINUES TO SUPPORT THE PRESENT TARGETING FORMULA IN GRS. A MODIFICATION OF THE EXISTING FORMULA IS OPEN FOR DISCUSSION AMONG OUR MEMBERS. A FINAL RECOMMENDATION IS THAT WHATEVER TYPE OF GRANT PROGRAM YOU PROPOSE

TO CUSHION THE LOSS OF FEDERAL PROGRAMS SHOULD BE ESTABLISHED ON A TRUST FUND BASIS THAT WOULD NOT BE SUBJECT TO ANNUAL APPROPRIATIONS AND WOULD BE EXEMPT FROM ANY BUDGET CUTTING MECHANISM SUCH AS GRAMM-RUDMAN-HOLLINGS.

DEVOLUTION

THE PROGRAMS WHICH WOULD BE ELIMINATED UNDER YOUR PROPOSAL COMPRISE MUCH OF THE FEDERAL ASSISTANCE WHICH GOES DIRECTLY TO COUNTY AND OTHER UNITS OF LOCAL GOVERNMENT. THE EPA WASTEWATER TREATMENT PROGRAMS; THE MASS TRANSIT FORMULA PROGRAM; THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) AND THE HOUSING PROGRAMS BRING BIG CHUNKS OF FEDERAL DOLLARS TO COUNTY GOVERNMENTS AND NACo WOULD BE RETICENT TO ENDORSE ANY PROPOSAL WHICH WOULD ELIMINATE THESE PROGRAMS OR EVEN SWAP THEM FOR A TARGETED FISCAL ASSISTANCE PROGRAM AND/OR THE FEDERALIZATION OF MEDICAID AND AFDC, THE BENEFIT OF WHICH , WOULD GO MAINLY TO STATE GOVERNMENTS. I AM ESPECIALLY CONCERNED ABOUT YOUR PROPOSAL BECAUSE IT TAKES THE FEDERAL GOVERNMENT OUT OF MOST OF ITS INFRASTRUCTURE PROGRAMS, AN AREA WHERE I BELIEVE INCREASED FEDERAL INVESTMENT IS REQUIRED. HOWEVER, OUR MEMBERSHIP WOULD BE WILLING TO LOOK AT ANOTHER LIST OF PROGRAMS WHICH WOULD NOT SO DIRECTLY IMPACT THE FINANCES AND SERVICES OF COUNTY GOVERNMENT.

LET ME CONCLUDE BY MAKING SEVERAL OBSERVATIONS ABOUT YOUR PROPOSAL AND, BY EXTENSION, THE COMMISSION'S REPORT, TO FORM A MORE PERFECT UNION. YOUR PROPOSAL IS THOUGHT PROVOKING AND TIMELY. IT RAISES SOME VERY IMPORTANT ISSUES WITH WHICH WE ALL NEED TO CONCERN OURSELVES. ONE MAJOR CONCERN IS THAT IT BLURS THE DISTINCTION BETWEEN STATE AND LOCAL GOVERNMENT. WITH DEVOLUTION, LOCAL GOVERNMENT WOULD LOSE THE FINANCING REQUIRED TO DELIVER ESSENTIAL SERVICES AND WOULD NOT BE ASSURED THE STATES WOULD STEP IN TO MAKE UP FOR THE LOSS EITHER IN PROVIDING REVENUE OR MAKING AVAILABLE NEW SOURCES OF LOCAL REVENUE. IF THE STATES DID NOT FILL THE GAP LEFT BY DEVOLUTION OR DID SO ONLY ON A PARTIAL BASIS , LOCAL GOVERNMENTS WOULD EITHER HAVE TO ELIMINATE THE SERVICE OR RAISE MORE TAXES.

COUNTIES' MAJOR SOURCES OF REVENUE ARE PROPERTY TAXES, A VERY UNPOPULAR TAX. MANY OF THE OTHER SOURCES OF REVENUE USED BY COUNTY GOVERNMENT MUST BE APPROVED FIRST BY THE STATE LEGISLATURE. A SALES TAX, FOR INSTANCE, IS NOT GOING TO BE POLITICALLY SALEABLE IN WASHINGTON STATE IF THE NEW TAX BILL IS ADOPTED. FINALLY, THE PROPOSAL DOES NOT ADDRESS THE ISSUE OF MANDATES. IF THE EPA WASTEWATER TREATMENT PROGRAM IS ELIMINATED, SHOULD COUNTIES CONTINUE TO HAVE TO MEET ALL EPA STANDARDS? I KNOW THAT THE CHAIRMAN HAS A MANDATE BILL, ONE WHICH NACo HAS STRONGLY SUPPORTED. PERHAPS THIS BILL SHOULD BECOME A PART OF THIS PROPOSAL.

NACo HAS UNDERTAKEN A MAJOR SURVEY OF ALL COUNTIES IN THE UNITED STATES. ONE QUESTION WE ASKED WAS THE PROBLEM COUNTIES FACE IS MAINTAINING OR IMPROVING COUNTY SERVICES AND I THINK THAT THE RESULT IS RELEVANT TO THE CONSIDERATION OF THIS PROPOSAL. OF THE 1181 COUNTIES WHICH RESPONDED TO THIS QUESTION, THE VAST MAJORITY, REGARDLESS OF SIZE, LISTED AS THE TOP FOUR PROBLEMS: STATE REQUIREMENTS WITHOUT STATE FUNDING, FEDERAL REQUIREMENTS WITHOUT FEDERAL FUNDING; FEDERAL FISCAL CUTBACKS; AND INSUFFICIENT TAX BASE (SEE ATTACHMENT B). WE BELIEVE ISSUES SUCH AS THESE NEED TO BE LOOKED AT MORE CLOSELY AS CONGRESS, THE ADMINISTRATION, THE STATES, AND COUNTY AND CITY GOVERNMENT GRAPPLE WITH THE ISSUES PRESENTED IN THE EVANS-DURENBERGER PROPOSAL.

THIS CONCLUDES MY STATEMENT AND I WOULD BE PLEASED TO ANSWER ANY QUESTIONS MEMBERS MAY HAVE.

Attachment A

NACo'S POLICY STATEMENT ON NEW FEDERALISM

The National Association of Counties (NACo) recognizes the need to initiate a reexamination of the roles and responsibilities of federal, state, and local governments. We continue to strongly support the concepts of decentralization. We pledge our complete support for the goals of providing control of essential government services, in so far as possible, at that level of government most capable of delivering them. This position is based on including in the concept those basic elements set forth in the following documents.

We welcome the President's invitation to NACo and our sister associations of elected state and local officials to enter into a dialogue with the administration and Congress on New Federalism. We will be supporting the following concepts in this dialogue.

1. Strengthen General Purpose Governments

Any transfer of program responsibility to the states shall recognize and preserve the role of general purpose local governments as the principal public service delivery unit. Such recognition should be reflected in such forms as:

A. Mandatory Pass-Through—Full and mandatory pass-through of funds by the states should be a procedural safeguard in any turn-back strategy where the local government is required to continue services of the program(s) turned back.

B. Preserve Existing Relations—The existing federal-local funding relationship should be maintained for the entitlement, or direct formula allocation, portion of existing grant programs.

C. Familiarity—Current participation in and expertise gained by local government in programs identified for turn-back should be recognized. This principle of familiarity and prior use is significant in any transfer program.

D. State Consultation—The states should make a commitment for meaningful consultation and negotiation with their local governments, and for the preservation of existing cooperative decision-making relationships in many programs proposed to be turned back. We are particularly interested in meaningful consultation with the states as it relates to:

- New state levies imposed to replace vacated federal taxes and how they relate to program responsibility and service delivery;
- Disparities, both in fiscal resources and responsibility, between the various intrastate governments;
- Management and administrative practices in the delivery of public services; and
- Maintenance of effort for state funding for current services.

E. Hold-Harmless—Hold-harmless provisions should be employed where the continuation of a service level is required, whether by law or judicial decision.

F. Administrative Costs—Federal programs and funding turned back to the states where a local role exists should contain a statutory requirement capping state administrative costs. Where the state interjects itself through the imposition of additional requirements, either program or administrative, there should be an obligation on the part of the state to adequately fund these additional requirements. This represents the long-standing NACo principle that the level of government which mandates an activity should accept funding liability.

2. Resource Match

The National Association of Counties reiterates its support for the return of responsibility and authority over federal assistance programs where such programs are returned with resources equal to the costs of the programs returned.

3. Income Maintenance

The National Association of Counties maintains its position that income maintenance programs, such as Aid to Families with Dependent Children (AFDC) and Medicaid, should be the sole responsibility of the federal government, with resources adequate to meet rising costs.

4. Federal Tax Base

Where federal revenues are pledged to fully fund programs and responsibilities transferred or returned to general purpose local governments, these revenues should be composed from a percentage of the base of the federal income tax so as to recognize the fiscal disparities of other tax sources. This fund should be a guaranteed entitlement trust, not subject to the annual congressional appropriation process, on an ongoing basis beyond the transition period.

5. General Revenue Sharing

Where appropriate, the National Association of Counties supports the use of the general revenue sharing program, its formula, allocation system, and requirements, as a representative model in determining fund distribution programs.

[illegible]

ment with the overall thrust of New Federalism, d integral administrative functions of state and vernment should remain or become the sole e of those levels of government to legislate, ; [illegible] State and local government flexiwould not be impeded or circumscribed by restrictions or regulations [illegible] ctions. All levels of government should work he reduction, simplification, and sunset of gov t-to-government mandates.

clusion

lational Association of Counties shall use and refer to these points in any consultation process, and in the formulation of legislative proposals that relate to the New Federalism initiative.

PROBLEMS COUNTIES FACE IN MAINTAINING OR ROVING COUNTY SERVICES

ATTACHME)B

	State Limits on County Authority			State Requirements Without State Funding			Federal Fiscal Cutbacks			Rural Economic Base			Urban Service Demands			Federal Requirements Without Federal Funding			Person Income Levels			Insufficient Tax Base			Tax Caps or Limitations			Insufficient Administrative Skills			County Debt Load			Total Number of Counties Responding
	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	
ALABAMA	19	2	1	20	1	1	20	2		7	11	3	4	12	4	17	4	1	8	12	1	11	9	2	12	8	1	2	14	3	5	10	5	22
ALASKA		1	4	2	1	1	2	1	2	1	2	1	1	1	1	1	2	2	1	3	1	1	1	3	1	1	1			5			5	5
ARIZONA	5	1		6			5	1		3	2	1	1	4	1	2	4		3	2	1	2	4		5	1		4	1	1	2	4		6
ARKANSAS	7	11	3	17	5		20	2		13	5	3	8	7	3	16	4	2	14	6	1	14	6	2	9	8	3	3	14	4	7	4	5	22
CALIFORNIA	21	10	4	35	1	3	26	9	1	21	3	8	13	11	6	16	13	6	6	19	9	24	4	8	25	7	4	5	10	15	2	6	18	39
COLORADO	22	20	8	36	11	3	35	13	2	33	12	4	17	14	11	26	20	4	21	23	5	23	23	4	23	22	5	3	18	26	7	10	21	50
DELAWARE	2		1	2		1	3			2				2		2	1			3			2	1	2		2		1	1				3
DISTRICT OF COLUMBIA																																		
FLORIDA	22	15	7	41	2	1	33	10	1	21	10	11	20	14	7	29	7	8	15	20	8	21	18	5	17	19	8	8	18	16	10	11	20	47
GEORGIA	18	18	13	42	8	2	42	9	2	21	22	5	17	15	10	32	17	4	20	27	4	26	14	10	9	19	11	7	20	19	16	10	14	57
HAWAII	3	1		3	1		3	1		2	1	1	1	2	1	3	1		1	2	1	4			3		1	2		1	2		2	4
IDAHO	20	1	1	22	1		20	2	1	15	4	2	4	11	5	17	6		15	5	1	17	2	2	23			2	7	9	4	3	4	23
ILLINOIS	24	5	2	31	1	2	21	11	1	20	6	5	6	9	9	24	6	2	14	16	1	24	5	1	19	9	2	7	9	9	6	14	7	34
INDIANA	10	9	3	18	3	1	17	3	1	9	8	2	5	7	6	16	3	3	9	9	2	8	10	2	11	6	3	3	9	7	4	4	11	22
IOWA	29	16	7	47	5	1	45	7	2	41	11	2	10	38	9	42	9	1	30	20	4	25	20	6	17	28	9	7	20	16	8	9	24	56
KANSAS	29	25	7	49	12	3	37	17	7	49	9	3	11	26	17	40	16	4	34	21	6	37	18	6	22	25	11	11	24	22	15	19	25	66
KENTUCKY	15	12	1	26	2	1	27	1	1	14	12	1	7	9	7	20	7	2	12	14	2	19	7	3	18	11	2	3	14	10	7	5	8	31
LOUISIANA	9	4	2	14	1	1	14	1	1	6	4	4	3	7	2	14	1		5	6	3	9	4	2	7	4	[illegible]	5	2	6	5	6	3	16
MAINE	4	2		5		1	3	2	1	3	1	1	1		2	5		1	1	3		3		1		2	1	1		3	1		3	7
MARYLAND	6	5	3	9	4	1	9	5		4	5	3	10	1	3	8	6		8	2	3	7	4	3	1	3	3		9	5	2	7	4	14
MASSACHUSETTS	5			2	1	1	2	1	1	1	2	1	1	2	1		4	1		4	1	1	2	1	4	1			1	2		1	2	5
MICHIGAN	12	16	1	26	4	1	26	4	2	10	13	7	3	16	5	22	6	4	10	15	6	17	9	4	10	15	6	3	12	13		13	16	35
MINNESOTA	16	13	2	32			23	8	1	19	9	2	6	16	8	23	8	1	15	13	4	14	14	3	14	11	6	5	15	10	4	9	16	32
MISSISSIPPI	4	2		5		1	5	1		5		1	3	2	1	4	2		3	3		5	1		5	1		1	3	2	4	2		6
MISSOURI	19	2	1	20	1	1	14	5	2	7	10	4	5	9	4	10	3	1	7	12	2	8	10	4	13	7	2	5	9	7	3	7	7	23

PROBLEMS COUNTIES FACE IN MAINTA G OR IMPROVING COUNTY SERVICES - Continued

	State Limits on County Authority			State Requirements Without State Funding			Federal Fiscal Cutbacks			Rural Economic Base			Urban Service Tennants			Federal Requirements Without Federal Funding			Person Income Levels			Insufficient Tax Base			Tax Caps or Limitations			Insufficient Administrative Skills			County Debt Load			Total Number of Counties Responding
	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	VI	SI	NVI	
MONTANA	17	3	4	23	1	2	21	4	2	16	7	2	4	9	7	19	3	1	13	12		17	5	3	12	8	4	7	7	10	3	5	10	27
NEBRASKA	18	6		26	2		21	4		12	9		2	13	4	22	1	1	14	8	1	14	10		6	11	2	2	9	8	3	9	4	28
NEVADA	7	3		9	1		8	1	1	7	2	1	5	2	1	6	3	1	3	5	2	7	2	1	10			2	4	3		3	7	10
NEW HAMPSHIRE	4	3		7	1		4	3	1	1	3	2	1	2	2	2	4	2	1	5	1	1	3	3	1	1	3		1	5			7	9
NEW JERSEY	6	4	3	12	1		10	3		2	2	7	3	7	3	7	5	1	1	7	5	4	2	5	6	5	2	1	3	6	2	6	4	13
NEW MEXICO	10	10	1	19	1	2	20	3		11	8	1	5	9	4	14	6	2	5	14	2	12	4	4	13	3	2	2	9	6	4	4	9	23
NEW YORK	10	15	9	32	2		29	5		16	9	4	5	14	9	23	8	2	9	16	8	13	12	8	5	9	10	2	9	15	5	10	16	34
NORTH CAROLINA	14	18	8	37	3		31	9		20	13	4	11	20	4	33	6	1	14	23	3	21	15	3	6	12	19	3	14	21	6	8	26	40
NORTH DAKOTA	5	5	1	9	2	2	7	2	1	6	5	2		5	4	10	1		3	7	1	2	6	2	7	2	1	1	5	3	1	5	3	13
OHIO	22	12	2	35	1		29	7		17	10	8	9	14	10	30	4		16	13	6	16	10	6	14	15	4	10	12	12	8	11	14	37
OKLAHOMA	16	7	3	24	3		20	7	1	16	8	2	8	7	8	20	6		14	11	1	15	8	2	10	9	4	3	8	7	5	4	8	29
OREGON	10	6	2	18			13	4	1	10	7		5	5	4	12	3	2	10	6	2	13	2	2	10	3	2	5	7	5		4	5	18
PENNSYLVANIA	24	12	3	36	3		34	5		15	13	6	8	16	10	28	11	1	8	24	4	18	14	6	16	14	7	2	21	12	5	13	13	41
SOUTH CAROLINA	8	1	2	11	1		9	3		3	5	3	5	6	1	8	2	2	4	4	3	4	6	2	5	1	2	1	5	3	1	4	7	14
SOUTH DAKOTA	7	4	4	11	4	2	13	3		13	3		5	7	1	14	2	1	11	3	2	9	6	1	5	4	4	6	6	3	5	5	5	17
TENNESSEE	14	9	2	23	3	1	18	8		9	11	7	5	12	4	18	7		12	11	4	10	13	3	5	9	9	2	11	11	4	16	6	29
TEXAS	51	26	6	80	6	1	53	24	7	39	31	10	17	29	21	69	11	5	40	34	10	31	29	19	18	37	20	13	35	24	18	20	32	93
UTAH	4	2	2	10			6	4		5	2	2	3	3	1	5	3		2	6	1	6	3		3	4	1		3	5		3	5	10
VERMONT		1		1				2			1				1		1		1				1			1			1			1		2
VIRGINIA	10	3		12	1		8	5		3	7	1	6	4	1	6	6	1	2	5	6	7	4	2	1	3	3	1	4	7	1	4	7	14
WASHINGTON	17	10	2	30	2		26	6		20	9	2	11	8	9	21	9	1	11	13	7	20	11	1	19	11	1	4	11	14	4	8	13	32
WEST VIRGINIA	8	2	2	10	2		12			5	5	2	2	6	2	9	3	2	6	5	1	9	3		7	4	1	1	4	5	3	1	4	14
WISCONSIN	16	11	2	27	3		25	5		13	15		2	12	12	21	8		17	12	1	8	17	5	3	6	10	1	15	11	4	6	16	31
WYOMING		3	2	4	1		3	2	1	2	3	1	1	2	3	4	2		1	3	2	1	2	3		1	4	1	2	2		2	4	6
TOTAL																																		1207

Table does not include "not applicable" or "missing data" responses.

TOTAL COUNTY RESPONSE BY POPULATION

	0 - 49,000						50,000-99,999						100,000-499,999						500,000 +					
	Very Important		Somewhat Important		Not Very Important		Very Important		Somewhat Important		Not Very Important		Very Important		Somewhat Important		Not Very Important		Very Important		Somewhat Important		Not Very Important	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
State Limits on Authority	373	50.4	222	30.0	84	11.4	84	54.2	43	27.7	17	11.0	111	52.6	69	32.7	21	10.0	42	56.0	23	30.7	7	9.3
State Requirement Without State Funding	614	83.0	70	9.5	19	2.6	136	87.7	11	7.1	3	1.9	180	85.3	18	8.5	5	2.4	63	84.0	8	10.7	2	2.7
Federal Fiscal Cutbacks	556	75.1	116	15.7	26	3.5	112	72.3	33	21.3	5	3.2	132	62.6	65	30.8	5	2.4	55	73.3	16	21.3	2	2.7
Rural Economic Base	444	60.0	201	27.2	27	3.6	65	41.9	57	36.8	23	14.8	57	27.0	77	36.5	54	25.6	7	9.3	10	13.3	35	46.7
Urban Service Demands	111	15.0	262	35.4	178	24.1	41	26.5	59	38.1	35	22.6	82	38.9	87	41.2	21	10.0	42	56.0	22	29.3	7	9.3
Federal Requirements Without Federal Funding	522	70.5	137	18.5	35	4.7	102	65.8	35	22.6	10	6.5	119	56.4	63	29.9	17	8.1	42	56.0	22	29.3	8	10.7
Personal Income Levels	350	47.3	283	38.2	45	6.1	47	30.3	75	48.4	25	16.1	46	21.8	106	50.2	45	21.3	15	20.0	30	40.0	25	33.3
Insufficient Tax Base	390	52.7	209	28.2	73	9.9	71	45.8	53	34.2	22	14.2	72	34.1	85	40.3	37	17.5	29	38.7	24	32.0	17	22.7
Tax Caps or Limitations	295	39.9	237	32.0	110	14.9	50	32.3	44	28.4	29	18.7	65	30.8	71	33.6	46	21.8	32	42.7	20	26.7	13	17.3
Insufficient Administrative Skills	96	13.0	290	39.2	211	28.5	21	13.5	52	33.5	65	41.9	18	8.5	71	33.6	95	45.0	7	9.3	19	25.3	33	44.0
County Debt Load	129	17.4	174	23.5	248	33.5	22	14.2	40	25.8	66	42.6	23	10.9	55	26.1	103	48.8	14	18.7	25	33.3	27	36.0
	Total of 740 Responses						Total of 155 Responses						Total of 211 Responses						Total of 75 Responses					

Table does not include "not applicable" or "missing data" responses

"The Need for Comprehensive Federal Reform: 1986"

Statement by Richard S. Williamson
September 26, 1986

Submitted to the Subcommittee
on Intergovernmental Relations
United States Committee on Governmental Affairs

I'd like to thank Chairman Dave Durenberger and the other members of the Senate Committee on Governmental Affairs Subcommittee on Intergovernmental Relations for inviting me to share my views with them during this hearing on federalism reform. I am delighted that the Subcommittee members recognize the importance of this topic. Drawing on my experience as Assistant to the President for Intergovernmental Affairs during President Reagan's first term and my continued keen interest in federalism issues, I offer these observations.

THE NEED FOR COMPREHENSIVE REFORM

During the 1930's, the New Deal introduced a host of federal assistance programs. Federal aid funds increased from $232 million in 1932 to more than $1 billion in 1934. Behind the actual funding increase was a new way of doing business in America whereby the Federal Government assumed vastly expanded duties. This trend continued largely unchecked for nearly 50 years.

During this period of explosive growth of the federal role, governments at all levels failed to develop a comprehensive thoughtful framework for our dramatically changing federal system. Many of the largely unintended results of these changes were damaging.

During this period, some raised reservations. At the Governor's Conference in 1957, President Eisenhower warned that "if present trends continue, the States are sure to degenerate into powerless satellites of the national government in Washington."1/ Nonetheless, in the 1960's and early 1970's, federal aid spending more than tripled and federal programs proliferated into almost all areas of domestic policy.

By the late 1970's, it was evident that our intergovernmental system was not working. The federal government was overloaded, having assumed more responsibility than it could manage.

As set forth at that time in the Advisory Commission on Intergovernmental Realtions' ten-volume study, The Federal Role in the Federal System: The Dynamics of Growth, there was a crises of confidence and competence in our federalist system. The report identified four areas of particular concern: administrative failures, red tape, and tension between the levels of government; poor performance and inadequate results; excessive cost and waste; and lack of adequate control responsiveness through the political process.2/ In sum, the system was overloaded, congested and wasteful.

Further, there had been a breakdown in accountability between voters and those who decide how to spend tax dollars. The political reward system had become so distorted that state and local officials were being judged too often by their effectiveness in "grantsmanship," rather than in governing.

The American people had become frustrated. Former New York Governor, then Vice President, Nelson Rockefeller, pointed out this development in a speech on federalism in 1976 when he said, "I sense a new impatience, boardering on exasperation, by many of the people, and it is clear something must be done about it and soon."3/

At approximately that same time, Ronald Reagan called for comprehensive reform of federal and state roles in the federal system. In a speech to the Chicago Executive Club in September, 1975, he said: "What I propose is nothing less than a systematic transfer of authority and resources to the state -- a program of creative federalism for America's third century." In February, 1976, Ronald Reagan put a structural framework for comprehensive reform in a "White Paper on Federalism."4/

Unfortunately, during the next few years there was no systematic, thoughtful, comprehensive reform of the federal and state roles in the federal system. The existing problems became more acute and a new troublesome problem emerged: The budget squeeze. By the last years of President Carter's Administration for the first time in decades, the federal grants-in-aid to state and local governments did not increase in real dollars, they shrank.

In 1980, Ronald Reagan renewed his call for comprehensive reform. When he received the Republican nomination for President in 1980, he said, "Everything that can be run more efficiently by state and local governments, we shall turn over to state and local governments, along with the funding sources to pay for it."5/

President Reagan again called for comprehensive reform in his Inaugural Address. He said, "It is my intention to curb the size and influence of the federal establishment and to demand recognition of the distinction between the powers granted to the federal government and those reserved to the states or to the people."6/

President Reagan has sought, with mixed success, to implement some of the federalism reforms he has repeatedly outlined during the past decade.

He has succeeded in getting unprecedented block grants passed by Congress and implemented. As the National Governors' Association reported in its Governors' Bulletin; "President Reagan has changed the direction of a federal aid system ... [The block grants] represent some progress toward greater flexibility for state and local officials at a time when aid to state and local government is shrinking."7/ And while his block grant proposals have suffered several set backs in Congress, President Reagan has pledged to "go back and back and back" to Congress "to get the flexibility that state and local governments need and deserve."8/ Just this year in his State of the Union Address, President Reagan again renewed his commitment to this vehicle for devolution.

> "Through block grants, we have been able to cut through federal red tape and allow state and local officials to design and administer programs that make sense to them and their taxpayers. Accordingly, the budget I submitted contains proposals for new block grants, and maintains healthy funding levels for the ones already in place."9/

President Reagan also has provided federalism reform through regulatory relief. In the 1960's and even more so in the 1970's, there was a boom in federal social regulations. Through many of its regulatory actions, as Murray Weidenbaum has pointed out, the federal government "reduced the automony of state governments and centralized the responsibilities for many important social, economic, and regulatory programs. This loss of automony has weakened the state and reduced their independence, while the centralization of responsibilities better handled at state and local levels has limited the effectiveness of the federal government."10/

This regulatory morass had grown so acute that in August, 1980, a New York Times editorial stated, "Each new day seems to bring some new directive from Congress, the courts or bureaucrats ... The mandates are piling up so fast that liberal governors and mayors are enrolling in a cause (to fight federal mandates) once pressed only by arch-conservatives."11/

Under President Reagan there has been substantial regulatory relief for state and local governments through block grants, increased state and local discretion, and continued implementation of Regulatory Policy Guidelines developed by the Office of Management and Budget; one of which reads:

> "Federal regulations should not preempt state laws or regulations, except to guarantee rights of national citizenship or to avoid significant burden on interstate commerce."12/

President Reagan has also sought to be mindful of federalism reform in dealing with the bursting federal budget. As he stated in addressing the nations' mayors at the time he sent his first budget to Congress,

> "I know that accepting responsibility, especially for cutbacks is not easy. But this package should be looked at by the state and local governments as a great step toward not only getting America moving again, but toward restructing the power system."13/.

As President Reagan's first Chairman of the Council of Economic Advisors, Murray Weidenbaum said at a time of budget crises, "the Administration's budget ... reflects a shift in federal priorities to truly national needs."14/

Last year, federal aid to state and local governments dropped for the seventh straight year as a percentage of state-local expenditures. It fell to state and local governments to raise taxes, to cut services, or to do both in order that revenues would match expenditures.15/ Fiscal stringency in the federal budget propelled fiscal decentralization.

As the members of this Committee well know, the federal government continues to face a serious federal budget hemorrage. The pressure to hold the line or cut federal domestic programs is enormous. Dramatic devolution is happening in the form of federal retrenchment and state-local ascendency.

Faced with sweeping new block grants, significant regulatory relief, and most dramatically the fiscal retrenchment in Washington, state and local governments have responded with robust leadership and innovation. As political commentator David S. Broder wrote last year:

> [T]he initiative on education, social and most economic environmental issues now rests in state capitols rather than in the U. S. Capitol and the White House. That shift is what Reagan set out to accomplish four years ago, and the extent of his success ... truly is revolutionary.16/

While the federal government has cut back spending for education, most states increased outlays for elementary and secondary schools and public colleges. At the same time that the Administration proposed cuts in Medicaid, Arkansas and West Virginia set up special funds to finance care for the indigent.17/

Most states have developed some economic cooperative ventures, using their universities and small amounts of public money to leverage private funds for new technology-based companies or stepped up application of new technology and worker training in old firms.18/ Massachusetts has transformed itself from a dying textile-based economy to a modern high-tech economy with low unemployment due to state and local government cooperation with business, labor, and education. Similarly, Pennsylvania is replacing its declining steel jobs with service and manufacturing employment.19/ As Delaware Governor Michael Castle said during the summer of 1985, "We're looking to Washington less and less. We're taking our futures into our own hands."20/

Twelve years ago, then National Governors' Conference Chairman Daniel J. Evans, today the distinguished Senator from the State of Washington, said, "It is my judgment that when historians write of the fundamental changes that occurred in the federal system during the last one-third of the 20th century the reaffirmation of the intended role of the states will be the characteristic most commonly noted."

Senator Evans was correct in 1974. Due to federal fiscal austerity, block grants and regulatory relief, there is an enormous transformation occurring in our intergovernmental system. Perhaps too often the changes have been unintended consequences of budgetary actions rather than planned and reasoned results.

Overload, congestion and waste remains in our federal system. Dramatic fiscal dislocation is occurring because of necessary fiscal austerity in Washington. While some real federalism reforms have taken place, much remains to be done.

President Reagan presented a framework for comprehensive federalism reform in his 1982 State of the Union Address.21/ There followed many months of unprecedented negotiations by Administration officials with state and local government leaders. Unfortunately, these efforts, while well intended by most parties, failed to find the necessary broad concensus to carry forward legislation on Capitol Hill.22/ But the need is real, and the problems grow more acute. Some piecemeal progress has been made. However, to provide needed real federalism reform, a new comprehensive framework that balances the various interests and needs of the various levels of government could prove invaluable.

PRINCIPLES FOR FEDERALISM REFORM

Any articulation of principles for federalism reform must be grounded in an appreciation of the pivotal role federalism plays in our Republic. The Articles of Confederation and the Constitution were preceded by innumerable compacts, covenants, and constitutions to create churches, trading companies, towns and colonies. They established the roots of federalism in the political, economic and social dimensions of American Society. Through this process, certain virtues of federalism emerged.

Federalism fosters social harmony because it reduces government to a manageable scale and makes citizen participation more readily accessible. Decentralization allows individual and communal interest to be balanced, avoiding collectivism and potential disintegration into anarchy. Federalism thus bonds the character of our society because people can unite with one another to accomplish a common purpose without losing their individuality.

Federalism promotes civic responsibility by fostering citizen participation. Community members serve on city councils, zoning boards, advisory committees and other similar organizations. Most states and localities provide for ballot initiatives and referenda to decide at least some public policy issues. Advisory votes also are common at the state and local level. All states have some form of open meeting laws, and most have open records laws. Most states also require local budget hearings. As a consequence of citizens participating in and learning about the workings of government, civic responsibility is more deeply embedded in society and allowed to flourish. This mitigates the dangers of a permanent ruling class entrenched in a distant bureacracy.

Federalism helps secure individual rights by providing multiple avenues of redress. By dividing government into units -- each deriving its authority from the same people, yet acting autonomously -- competition for public preference in the delivery of services is encouraged. Each unit serves as a protector from the tyranny of the other.

Federalism provides diversity and allows for local considerations in problem solving. In 1932, Supreme Court Justice Louis Brandeis wrote:

> It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.23/

States can learn from one another's experiments. Under a federal framework, a problem solved in one manner at a given time and place may be solved differently in another period and setting. States and localities have flexibility to adjust for differing social customs, demographics, and climate. In the area of welfare, for example, it is impractical to design one program which will serve the diverse needs of the urban poor in New York City, the refugees in Miami and the rural poor in Appalachia.

Federalism fosters accountability because state and local officials are more accessible to the people. By decentralizing the public policy forum, decisions that directly affect the lives of average citizens are made by the unit of government closest to them. People know who to blame when services go sour, and they have recourse in the voting booth. Also, local officials are full-time citizens of the community and are available in the neighborhood on a daily basis.

Federalism is efficient because responsibilities are sorted out. With a national government focusing on national problems, and state and local governments handling their own local problems, the system does not become overloaded and congested. Flexibility and workability are maintained because resources can be targeted. Conversely, monolithic governments are wasteful -- their bureaucratic overhead diverts funds from real services, and programs may be designed which are not really needed in certain jurisdictions.

The qualities of a federal system can be summarized as the law of comparative advantage for governments: Let each unit do what it does best and most efficiently. It is a division of labor as fundamentally prudent in government as it is elsewhere.

Working from this analysis of the pivotal role federalism should play in our society, I suggest two guiding principles for federalism reform.

First, there should be a presumption that public service be provided by the unit of government closest to the people. And, to the extent feasible, the public officials that provide the services (the benefits) should raise the revenues to pay for those services. This fosters diversity, experimentation, broad civic participation, efficiency, and -- perhaps most critically -- it would help provide accountability.

While this principles should be a "rebuttable presumption", it nonetheless is a starting point for policy analysis.

Second, one should be very wary of any national standards. The political process inevitably ratchets up national standards to satisfy the worst case, the most expensive problem area. The result is excessive and wasteful spending in less severe cases and less expensive problem areas. This is a fiscal luxury that we can ill afford today with a hemorrhaged federal budget.

THE EVANS-ROBB FEDERALISM REFORM COMMITTEE REPORT

I was pleased to serve as a member of the Committee on Federalism and National Purpose that was ably co-chaired by Senator Daniel J. Evans and Governor Charles Robb. Both Senator Evans and Governor Robb have been serious students of and leading practitioners in our federal system. They provided steady and thoughtful leadership to the diverse membership of the Committee. Thanks to their leadership and to the good will amongst our diverse members, a report was fashioned of serious purpose and sweeping recommendations. I am pleased that Senators Evans and Durenberger plan to introduce legislation drafting on the conceptual outline of the report. I am enthusiastic about some of these proposals, with others I am unable to be in full accord.

The Committee's robust recommendations on devolution are superb. The report reads:

> States and localities should assume full financial policy and administrative responsibilities for many community development, local infrastructure and social service programs.24/

Without reviewing the particulars of each program that might be included in such comprehensive federal reform, the thrust of such an initiative is consistent with the "federalism principles" I have outlined and a sober recognition of federal fiscal realities. Further, and more importantly, the diverse membership of the Committee recognized in making this recommendation that "responsibility for advancing these national purposes can and should be entrusted to states and localities ... States and localities are as committed to the well-being of their citizens as the federal government is."25/ It represents a current recognition of the vitality, compatibility and compassion of state and local governments. This is a radical shift for the political center over the past few years. It is a shift I welcome as healthy for our federal system and one which is overdue.

Any federalism reform legislation which would advance such devolution is welcome and warrants active support.

I also welcome the Committee's recommendation for fiscal capacity grants to states. There are widely divergent capacities amongst the states. While I do not feel the federal government should be in the business of equalizing the fiscal situation amongst all states, nor does it have the fiscal capacity to do so, there is a real need for some form of a "safety net" to assist the poorest states in providing minimal levels of adequate services. This recommendation should be part of any comprehensive federalism reform package.

I applaud the Committee's recognition that long-term care is not a medical problem and should be separated from the rest of the Medicaid program and transformed into a block grant. There is a real need to develop better long-term care systems. By giving states the policy and administrative responsibility for long-term care within broad federal guidelines, the probabilities of more efficient and humane systems for providing long-term care are greatly enhanced.

A significant portion of the Committee's recommendation with which I am unable to be in full accord is in the area of welfare. I do not believe nationwide benefit floors for AFDC and Medicare nor uniform eligibility standards for these programs as outlined in the Committee report are necessary. They are not prudent fiscally nor healthy for our federal system. Nor can I be in accord with the recommendation for federal funding of a full 90 percent of AFDC and Medicare up to the minimum benefit floors. At the same time, I applaud the Committee's recommendation that "the AFDC program should place higher priority on helping long-term beneficiaries become self-sufficient through work."26/

CONCLUSION

The intergovernmental system is changing dramatically. This change is driven by fiscal austerity in Washington, an Administration committed to devolution through block grants and regulatory relief, increasingly able and responsive elected officials in state and local governments with a host of ideas and the initiative to experiment, and a historical recognition in our society of the virtues of federalism.

This sea change can be enchanced, shaped, proded and made more rational by new comprehensive legislation to reform the federal and state roles in the federal system. I applaud the Subcommittee for taking these steps to help realize that goal.

FOOTNOTES

1/ President Dwight D. Eisenhower, Address to the 1957 Governors' Conference, Williamsburg, Virginia, June 24, 1957.

2/ Advisory Commission on Intergovernmental Relations, "A Crisis of Confidence and Competence", The Federal Role in the Federal System: The Dynamics of Growth, A-77, 1980.

3/ Vice President Nelson Rockefeller, Address "To Make Our Federal System Work Better," 1976 National Governors' Conference, Washington, D.C., February 24, 1976.

4/ Ronald Reagan, White Paper On Federalism, February 8, 1976.

5/ Ronald, Reagan, Acceptance Speech Upon receiving the Republican Party Presidential Nomination, Detroit, Michigan, July, 1980.

6/ President Ronald Reagan, Inaugural Address, Washington, D.C., January 20, 1986.

7/ National Governors' Association, President Reagan Had Changed the Direction of Federal Aid System, 81-83 Governors' Bulletin 2, Aug. 7, 1981.

8/ President Ronald Reagan; Address to the National Conference of State Legislatures, Atlanta, Georgia, July 30, 1981.

9/ President Ronald Reagan, State of the Union Address, Washington, D.C., February 6, 1986.

10/ Murray Weidenbaum, "Strengthening our Federal System," Journal of Contemporary Studies 4 (Fall, 1981), pp. 71-72.

11/ Editorial, "Fighting Federal Mandates," The New York Times, August 16, 1980.

12/ President's Task Force on Regulatory Relief, "Reagan Administration Regulatory Achievements," August 11, 1983, pp. 17, 19.

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17/ Robert Pear, "States Are Found More Responsive on Social Issues," The New York Times, May 19, 1985, A1.

18/ David S. Broder, "Midwesterners Cite Signs of Turnaround," The Washington Post, Aug. 21, 1985, A4. See also, Terry Nicholas Clark, "A New Breed of Cost-Conscious Mayors," The Wall Street Journal, June 10, 1985, p. 15; Editorial, "Leadership to the States," Chicago Tribune, May 11, 1985, p. 24.

19/ David S. Broder, "State of Economic Leadership," Chicago Tribune, Aug. 5, 1985, p. 12.

20/ David Shribman, "Governors Feel Limited by U.S. Deficit But Enjoy Freedom From Washington," The Wall Street Journal, Aug. 6, 1985, p. 62.

21/ President Ronald Reagan, State of the Union Address, Washington, D.C., January 26, 1982.

22/ Richard Williamson, "The 1982 New Federalism Negotiations," Publius: The Journal of Federalism, Spring, 1983, Vol. 13, No. 2, p. 11.

23/ Justice Louis Brandeis, in a dissenting opinion in New State Ice Co. v. Liebmann (1932).

24/ The Report of the Committee on Federalism and National Purpose, "To Form A More Perfect Union," National Conference on Social Welfare, Washington, D.C., 1985, p. 17.

25/ Ibid., p. 18.

26/ Ibid., p. 15.

TESTIMONY ON FEDERALISM REFORM

BY

STUART E. EIZENSTAT

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,

COMMITTEE ON GOVERNMENTAL AFFAIRS

Washington, D.C.

September 26, 1986

Senator Durenberger and members of the Subcommittee, I am very pleased to appear before you today to express my support for the Federalism Act of 1986 (FACT). As we prepare to celebrate the 200th anniversary of our Constitution, it is especially appropriate to focus on the roles which our Federal, State and local governments play in American society, while at the same time reforming our welfare system to increase the independence and self-reliance of its recipients and to reduce its inequities.

The Federal structure of our system of government, with power dispersed among Federal, State, and local levels, has been a backbone of our country. However, over the years, the responsibilities of the different levels of government have failed to keep pace with the country's needs. The Federal government now acts in areas where it does not perform well -- such as economic regulation -- or where States can do as well or better -- such as economic development and infrastructure. There are too many overlapping Federal categorical programs and too many illogical relationships between the Federal government and State and local governments. At the same time, the Federal government has failed to assume more complete responsibilities in other areas where State and local action is insufficient -- such as programs to benefit low income Americans.

Our intergovernmental system has become part of the problem and must change, as it has done in the past, to confront new challenges. It must change if we are to come to grips with pressing problems that Federal, State and local governments must work together to solve. So, too, must our welfare system be changed. It has failed its intended beneficiaries and the taxpayers, who support it.

The Reagan Administration has made an ideological debate out of federalism, because of its distrust of virtually any Federal action. This has had the unfortunate consequence of polarizing the debate over federalism. The proper approach is the one you have taken, Senator Durenberger, namely to determine in a practical way which level of government can best deliver a needed government service and to rearrange the delivery of services accordingly. As we look forward to the 100th Congress in American history, nothing would be more appropriate than to reinvigorate the Federal system.

Our future must be based on a new division of labor, a new federalism built on a more rational sharing of responsibilities among Federal, State, and local governments. This new division -- which lets each level do what it does best and recognizes that all levels of government must work together to serve the public -- lies at the heart of the bill before you. Your bill, Mr. Chairman, proposes a principled readjustment in our government's underlying structure. It is a rational plan to sort out responsibilities to help us achieve "a more perfect union." This proposal is neither budget reduction in disguise nor an attempt to irrationally withdraw responsibility from one level, only to throw it onto others ill-equipped to assume the responsibility.

This bill would not have been possible without the work of the Committee on Federalism and National Purpose. The Committee was one activity of the Project on the Federal Social Role, chaired by Alan Pifer. Forrest Chisman, the Staff Director of the project, and Stephen Farber conceived and directed the Committee and drafted the final report. Forrest Chisman and Judith Golub had the difficult task of developing and analyzing the ideas that transformed the Committee's recommendations into realistic legislation. Judith Golub provided the expert counsel on which we all relied.

I had the pleasure to serve on this bipartisan committee chaired by Senator Daniel Evans and Governor Charles Robb. Our mission was to recommend changes in our system of shared governmental power that are required to improve the ability of all levels of government, individually and collectively, to address major problems of nationwide concern. The Committee was composed of a very diverse group of people with different philosophies and political views. Yet, the Committee was able to agree to detailed recommendations that guide the reallocation of intergovernmental responsibility in its report, _To Form a More Perfect Union_. These principles are central to FACT. Permit me to discuss them briefly.

- The _Federal government_ should assume greater program and financial responsibility when nationwide uniformity of policy, finance or administration is important and when it is necessary to raise revenues from the nation as a whole and distribute them to various parts of the country.

- States should assume responsibility when local government boundaries create barriers to effectively raising revenues and delivering services, and when resources and responsibilities must be distributed among localities when there is no overwhelming reason for the Federal government to decide how they should be distributed.

- States and localities should assume responsibility when diversity of policy, finance or administration is important, when solution to problems should be tailored to different regions and localities, and when experimentation by officials responsible to local electorates and their knowledge of local conditions are key to meeting public needs.

These principles drive the new division of labor proposed in FACT. Briefly, FACT:

- Creates more uniform eligibility standards and benefit levels for AFDC and Medicaid, along with greater Federal responsibility for program costs.

- Mandates and funds State activities to encourage the employment of AFDC recipients.

- Block grants to the States the non-medical components of Long Term Care and increases the Federal share of payments for these services, while allowing greater opportunities for the development of non-institutional care alternatives.

- Narrows gaps in the fiscal capacities of targeted States and helps localities meet pressing needs.

- Substantially reduces the number of intergovernmental programs through a rational reallocation that places more responsibility for selected functions with States and localities who then can determine their own priorities.

As this list suggests, this bill offers what we so badly need, a comprehensive program to restructure intergovernmental relations. Some people say that with the Federal government's massive deficit burden, we do not have the time nor the political will to enact such sweeping reforms. Yet, now is precisely the time to enact such changes. Fiscal pressures make such a planned and thoughtful evolution of the Federal system, one that is fiscally neutral for the Federal government, all the more important. Otherwise, these changes will be made under the duress of budget pressures alone. I would now like to review in more detail the bill's major provisions:

- More uniform eligibility and benefit levels for AFDC and Medicaid and greater Federal responsibility for program costs. Income security is a national responsibility. The Federal government currently assumes responsibility for some of the poor and not others. Americans are entitled to more equal treatment by programs intended to provide life's basic necessities. Only the Federal government effectively can bring about greater uniformity and adequacy of welfare services. The accident of a person's birth or residence should not lead to wildly varying welfare benefits. For example, in January 1985, the maximum AFDC benefit was $555 in California, but only $118 in Alabama.

To this end, the bill proposes to increase the number of people who are eligible to receive Medicaid. These people include poor children and pregnant women and those who are ineligible for Medicaid because the States in which they reside have more restrictive income eligibility criteria or do not offer a Medically Needy program. We also propose to increase the Federal responsibility for Medicaid by raising the Federal reimbursement rate for each State's Medicaid costs by 2 percentage points a year. These payments would be capped at 90 percent.

The bill also proposes significant reforms in AFDC. It mandates AFDC-UP in all States so that family stability is encouraged. It establishes a Federal minimum AFDC benefit, a cash grant which, along with the value of food stamps, equals 50% of poverty. The Federal government pays 90 percent of this grant, the value of which increases by 2 percent of poverty per year. States continue to be reimbursed at current rates for amounts above this minimum. This plan is a vast improvement over what we have now, a crazy-quilt pattern whereby families in one part of the country receive as much as 5 times the assistance as do families living elsewhere. This variability reflects both State capacity and political will and should offend our sense of justice and national unity.

Over the years AFDC has been at the center of much controversy. The lack of consensus about appropriate goals for our welfare program and the policies we should enact to achieve these goals have stymied many past reform efforts, including some in which I have been involved personally. The plan before you reconciles many past difficulties. While it increases Federal responsibility for AFDC and eliminates irrational differences between States, it also increases State and local responsibilities for other functions where interstate differences are appropriate. This bill also strongly advocates work as one solution to welfare, a feature to which I will now turn.

- Increased emphasis on employment. FACT not only mandates more uniform and adequate income maintenance and health benefits, it also maintains that one of the best ways to help poor people is to attack one of poverty's root causes -- the lack of a job. People will remain poor until they find a place within the regular, full-time labor force. Therefore, FACT proposes a vigorous work program for AFDC participants that combines an increased Federal presence with increased State discretion in order to change the welfare system into a job system.

Over the years, we have learned a great deal about how to wage war on dependency. Many of us now agree that AFDC serves a population, a significant part of which is employable and that this population needs more and different kinds of services than those that could be provided under the Jobs Training Partnership Act (JTPA) alone. As a nation, we have learned much from the successful demonstrations that Massachusetts, California, Maine, Michigan and other States have undertaken. We must bring these successes to the rest of the nation.

To this end, the bill mandates a vigorous work program for eligible AFDC recipients funded in the first year at $500 million, with an annual increase of $100 million up to a level of $1 billion. Increased State discretion accompanies this increased Federal fiscal support. The bill also recognizes that women with young children are often prevented from working because of the absence of appropriate childcare. The bill therefore provides increased support for ancillary support services that women with children of all ages need and mandates participation for mothers with children under age 6 only if appropriate childcare is available.

- An Improved Role for the Federal Government in Long Term Care: All of us are concerned about the quality of long term care services and the escalating costs of this care. We also all know that the need for long term care will increase over the decades as our population ages. We therefore must develop a more humane and efficient way to provide necessary services. FACT helps start us on our way. The bill proposes a block grant to States for the non-medical aspects of long term care. This grant preserves the principle of Federal responsibility in a program structure that encourages State experimentation in community based and other, perhaps less costly, modes of care. Importantly, the plan does not freeze into place the existing large interstate per capita expenditure disparities and offers States the flexibility to use funds in the way each sees fit to best provide recipients with needed care.

Under the proposal, the Federal cost share will increase in every State. In fact, the first year grant exceeds the

Federal contribution in the year prior to the plan's implementation. Furthermore, funding levels will rise according to a formula that combines an increased Federal presence with additional funds to deal with growth in the target population and with unit costs.

In short, this plan increases the Federal presence in long term care without freezing into place existing wide disparities in per capita expenditures, encourages less costly forms of care, and mandates formula based increases that assure the funds needed to phase in long term care initiatives, without putting any individual State at risk.

- Targeted Assistance Grants to States and Localities: Differences in fiscal capacity and in need have long been a problem for the Federal system. Some States and localities simply are less affluent or have more severe problems to solve than do others. One recent estimate suggests that the least affluent States with the greatest needs would have to carry more than twice as large a tax burden to provide the same level of services as less troubled areas. Such a high level of taxation would be unrealistic and unacceptable to taxpayers.

To deal with these differing fiscal capacities and needs as well as the impact of the devolution plan, your bill wisely proposes two grants, one to selected States and the other to selected localities. The State plan targets those States with very low fiscal capacity, those approximately 14 States that manifestly cannot provide services on a par with the rest of the nation. The local assistance program targets those localities most in need, taking into account population, tax effort and per capita income.

In sum, this plan creates a mechanism through which Federal money helps equalize economic disparities. A plan that aims toward such economic equity is central to any reordering of intergovernmental relations.

- Devolution to States and localities of programs that are local in impact and take very different forms in each State and locality: Not only are there too many overlapping Federal categorical programs, but the Federal government should phase out its involvement in areas where it does not perform well and entrust responsibility for these functions to States and localities. The bill proposes devolving to States and localities most local community development, infrastructure and some personal social service programs. This devolution plan is based on a principled and rational reallocation of responsibilities. States and localities more efficiently can take over functions that should reflect local needs and priorities.

States and localities have proven themselves to be as committed as the Federal government to the well-being of their citizens and are more able to assume such responsibilities than they were even as recently as a decade ago. They are capable of designing, implementing and often funding, in whole or in part, these programs and are capable of taking on responsibility for them, without Federal strings.

In fact, our current intergovernmental system makes it harder for States and localities to do their job. As it now stands, the current system skews priorities, creates delays and often raises costs through complex bureaucratic procedures. The devolution plan proposed by your bill would reduce administrative burdens on all levels of government, allow States and localities to set their own priorities to more closely reflect their own needs, and untangle the complex web that enmeshes the intergovernmental system and creates many illogical relationships.

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The proposals this bill suggests taken together achieve a sweeping reordering of intergovernmental relations and a major recasting of Federal domestic priorities. I emphasize that this proposal must be taken as a whole, for selecting one or several parts and eliminating others would badly skew desired ends, disrupt the current intergovernmental system for little positive gains and destroy the grounds for consensus.

Taken as a whole, FACT offers us a responsible, reasonable and achievable blueprint that differs significantly from previous "New Federalisms." It is not driven by an antagonism to Federal involvement in domestic affairs. It is not an attempt to bury or destroy selected programs in an irrational hit list. It does not ignore States' and localities' differing needs and capacities.

Rather, FACT proposes a rational division of responsibility between cooperating partners, a sharing based on a logical, coherent and principled plan; one that can help us meet our present challenges; one that offers us a tool by which we can construct a more manageable future; one that helps to ensure the strength of the Federal system long after our celebrations over the Constitution's Bicentennial ends; one that, in short, helps us meet the challenges of our time.

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

STATEMENT
OF
THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

BY

JOHN SHANNON
EXECUTIVE DIRECTOR

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

SEPTEMBER 26, 1986

Mr. Chairman, I am John Shannon, Executive Director of the Advisory Commission on Intergovernmental Relations (ACIR). Accompanying me here is Dr. Mark David Menchik, of the ACIR staff. The Senate Subcommittee on Intergovernmental Relations has asked our staff to analyze the state-by-state fiscal impacts of a "swap" proposal designed to reform welfare programs and to improve the working of our federal system of government.

The fiscal impact of any swap proposal--how each state would fare--is key to the proposal's acceptance and to its simple fairness. We can help here. The ACIR staff has developed a computer-assisted procedure to minimize states' fiscal mismatch -- dollar gains and losses.

The swap proposal we analyze is derived from the work of the Evans-Robb Committee (the Committee on Federalism and National Purpose) and also represents the work of Senator Durenberger and the Subcommittee on Intergovernmental Relations.[1] However, before setting forth our findings on the proposal, I want to emphasize that the report of the Evans-Robb Committee follows the general policy endorsed by the Advisory Commission on Intergovernmental Relations over the past two decades.

- In 1969 ACIR went on record urging the national government to assume full financial responsibility for AFDC and medicaid.[2]

- More recently--in 1980--the Commission reiterated its call to "federalize" the financing of these welfare-related programs. To offset this added cost to the federal government, the Commission asked for a termination of other federal programs that provide grant aid to states and localities.[3]

As you are aware, Mr. Chairman, the present Commission is now reappraising its earlier position on federalizing the financing of welfare and related programs. As part of its reappraisal, ACIR has conducted a series of hearings on welfare reform throughout the country. When this topic comes up for consideration by the Commission in December, it cannot be assumed that the present Commission will put its stamp of approval on these earlier ACIR recommendations.

Now let me turn to the technical issue: state-by-state fiscal mismatch in what I call the "Evans-Robb-Durenberger swap proposal." I want to emphasize that our study is only preliminary, and the proposal itself has been evolving.[4] Three principal findings emerge from the analysis and I will outline each in turn.

FINDING 1: Under the Evans-Robb-Durenberger proposal, all the states in the Northeast except Connecticut would lose sizeable amounts of funding. Virtually all of the Southeastern states, however, would gain substantially. In the table below, each state's per capita gain or loss under the swap proposal appears in Column 5.[5] Mississippi--the state with the lowest fiscal capacity by all measures--would gain $67 a head. (This is in addition to a fiscal capacity grant under consideration.) At the other extreme, New Hampshire would lose $64 per capita while its less well-off neighbor, Vermont, would lose $51. Further illustrating the sharp interstate variation, West Virginians would lose the equivalent of $34 each; Hawaiian islanders $38. None of the states with the lowest fiscal capacity, however, suffer a large loss. Aside from Florida, Virginia, and West Virginia, the states in the Southeast--with weak tax bases and many poor--should enjoy large gains.

Region & State	Under Evans-Robb-Durenberger Swap, post transition: Additional Federal Funding for Welfare Programs (per cap.) (1)	(total,$M) (2)	Turnback of Other Programs (total,$M) (3)	Net Gain or Loss (total,$M) (4)=(2)+(3)	Per Capita Gain or Loss ($) (5)	Revised Swap, post transition: Turnback of Other Programs (total,$M) (6)	Net Gain or Loss (total,$M) (7)=(2)+(6)	Per Capita Gain or Loss ($) (8)
NEW ENGLAND								
Connecticut	$43.50	137.2	-145.3	-8.1	-2.50	-145.0	-7.8	-2.47
Maine	$34.34	39.7	-61.8	-22.1	-19.13	-54.2	-14.5	-12.53
Massachusetts	$43.96	254.9	-452.4	-197.5	-34.06	-369.5	-114.6	-19.76
New Hampshire	$17.81	17.4	-79.8	-62.4	-63.05	-34.0	-16.6	-16.97
Rhode Island	$44.70	43.0	-59.7	-16.7	-17.32	-53.6	-10.6	-11.00
Vermont	$33.02	17.5	-44.8	-27.3	-51.49	-26.3	-8.8	-16.63
MIDEAST								
Delaware	$43.07	26.4	-52.2	-25.8	-42.02	-31.0	-4.6	-7.46
Maryland	$43.44	188.9	-301.3	-112.4	-25.04	-225.6	-36.7	-8.44
New Jersey	$49.43	371.5	-518.5	-147.0	-19.56	-428.2	-56.7	-7.54
New York	$67.43	1195.8	-1719.8	-524.0	-29.55	-1404.2	-208.4	-11.75
Pennsylvania	$32.40	386.6	-840.4	-453.8	-38.14	-809.3	-422.7	-35.52
GREAT LAKES								
Illinois	$59.46	684.4	-710.7	-26.3	-2.29	-691.3	-6.9	-0.60
Indiana	$61.42	337.7	-259.8	77.9	14.17	-252.1	85.6	15.57
Michigan	$57.06	525.1	-594.8	-69.7	-7.68	-574.5	-49.4	-5.44
Ohio	$66.81	718.3	-620.2	98.1	9.13	-537.7	180.6	16.80
Wisconsin	$46.92	223.6	-251.1	-27.5	-5.77	-223.9	-0.3	-0.07
PLAINS								
Iowa	$42.34	123.2	-120.2	3.0	1.04	-122.2	1.0	0.33
Kansas	$34.54	84.2	-77.9	6.3	2.58	-90.0	-5.8	-2.36
Minnesota	$39.24	163.3	-173.9	-10.6	-2.54	-181.9	-18.6	-4.47
Missouri	$55.55	278.2	-276.0	2.2	0.44	-242.1	36.1	7.22
Nebraska	$37.11	59.6	-60.6	-1.0	-0.64	-56.9	2.7	1.69
North Dakota	$56.71	38.9	-38.3	0.6	0.87	-33.6	5.3	7.70
South Dakota	$66.29	46.8	-33.2	13.6	19.21	-40.4	6.4	9.04
SOUTHEAST								
Alabama	$77.99	311.2	-161.5	149.7	37.52	-240.8	70.4	17.64
Arkansas	$65.01	152.7	-86.7	66.0	28.10	-132.8	19.9	8.46
Florida	$40.13	440.5	-411.0	29.5	2.69	-462.5	-22.0	-2.00
Georgia	$65.68	383.4	-318.8	64.6	11.06	-365.8	17.6	3.01
Kentucky	$65.75	244.8	-156.2	88.6	23.80	-212.7	32.1	8.62
Louisiana	$80.55	359.4	-176.5	182.9	40.99	-259.8	99.6	22.31
Mississippi	$113.90	295.9	-122.4	173.5	66.77	-220.5	75.4	29.03
North Carolina	$56.33	347.3	-218.3	129.0	20.92	-271.6	75.7	12.28
South Carolina	$52.79	174.2	-138.3	35.9	10.88	-168.3	5.9	1.79
Tennessee	$74.20	350.0	-170.1	179.9	38.13	-255.2	94.8	20.09
Virginia	$37.38	210.7	-209.1	1.6	0.29	-216.0	-5.3	-0.93
West Virginia	$35.30	68.9	-135.0	-66.1	-33.85	-110.6	-41.7	-21.35
SOUTHWEST								
Arizona	$34.69	105.9	-106.3	-0.4	-0.14	-144.6	-38.7	-12.60
New Mexico	$60.74	86.5	-47.6	38.9	27.35	-84.5	2.0	1.39
Oklahoma	$37.05	122.2	-98.1	24.1	7.30	-133.7	-11.5	-3.48
Texas	$60.77	971.6	-670.4	301.2	18.84	-757.8	213.8	13.37
ROCKY MOUNTAIN								
Colorado	$37.90	120.7	-112.0	8.7	2.74	-140.4	-19.7	-6.21
Idaho	$41.16	41.2	-33.2	8.0	8.01	-40.1	1.1	1.09
Montana	$29.25	24.1	-41.4	-17.3	-20.94	-37.9	-13.8	-16.80
Utah	$28.69	47.4	-70.5	-23.1	-13.98	-62.2	-14.8	-8.98
Wyoming	$36.99	18.9	-30.5	-11.6	-22.65	-19.4	-0.5	-0.96
FAR WEST								
California	$60.78	1557.3	-1370.0	187.3	7.31	-1511.2	46.1	1.80
Nevada	$34.47	31.4	-38.2	-6.8	-7.47	-34.5	-3.1	-3.36
Oregon	$43.49	116.3	-161.4	-45.1	-16.88	-170.7	-54.4	-20.33
Washington	$44.42	193.2	-181.4	11.8	2.72	-212.2	-19.0	-4.37
Alaska	$71.00	35.5	-36.6	-1.1	-2.20	-35.5	0.0	0.01
Hawaii	$37.92	39.4	-78.5	-39.1	-37.65	-51.7	-12.3	-11.86
UNITED STATES	$54.60	12,812.8	-12,872.7	-59.9	-0.25	-12,980.5	-167.7	-0.71
Avg. Interstate Deviation:	$14.65				$18.43			$9.43

Source: Preliminary calculations by ACIR staff; see notes.

An indicator of interstate variation in gains and losses, the average interstate deviation in Column 5 is $18.43 per capita. That is an unweighted figure. Weighted by population, it is $16.29.

FINDING 2: The sharp interstate differences in gains and losses under the Evans-Robb-Durenberger proposal can be cut nearly in half by substituting a revised set of turnback programs designed by the ACIR staff to minimize state-by-state fiscal mismatch. Appendix Table A2 presents an alternative turnback package, comprising 66 programs. The revised set is currently funded at almost exactly the same funding level as the set of program under the swap proposal and net gains or losses are calculated with exactly the same gains due to increased welfare funding (the figures in Column 2).

The revised package illustrates how state-by-state fiscal mismatch can be substantially reduced. The computer procedure that assisted in designing the package sought combinations of turnback programs that: (a) reduced both gains and losses and (b) as much as possible, assigned the remaining losses to states with high fiscal capacity and assigned gains to states with low fiscal capacity.[6]

Under the ACIR revision, New Hampshire still would incur a loss, but it decreases from $63 per capita under the swap proposal to $17 per capita under the revised package. (Compare Columns 5 and 8.) Vermont's loss is trimmed from $52 per capita to $17 also. Wyoming's loss of $23 per capita almost vanishes.

The movement toward state-by-state fiscal neutrality also has its effect on the states with weak tax bases. Mississippi's gain declines from $67 to $29 per capita. Arkansas goes from +$28 to +$8. If a higher degree of fiscal equalization is desired than provided by the revised package--such as under the original swap proposal--it can be obtained through the planned fiscal capacity grant, as well as from the design of grant programs to be turned back.7

Overall, the cut in mismatch is demonstrated by average interstate deviation which almost halves, decreasing from $18.43 to $9.43 per capita (unweighted). The population-weighted index declines from $16.29 to $9.80 per capita.

Mr. Chairman, even though the ACIR procedure produces the minimum mismatch possible, there are limits as to how much it is possible to level the mountains (states with gains) and fill in the fiscal valleys (states with losses.)

FINDING 3: Although our specially designed package substantially reduces state-by-state fiscal mismatch, there will always be some losing states so long as federal policy-makers insist on fiscal neutrality for the national government. The 25 states with losses under Evans-Robb-Durenberger add up to a total loss of $1.942 billion.8
The halving of aggregate mismatch under ACIR's revised package leads to a lower total of losses, $1.240 billion spread out among 29 states. (See Column 7.)

Even though the combined loss is at its theoretical minimum in the ACIR package, an aggregate loss of over a billion dollars is still a considerable figure. Looked at another way, holding each state harmless would cost a minimum of $1.2 billion.

We emphasize that reducing mismatch is only one of the goals to be pursued in designing packages for federalism reform. It is useful, though, to have the minimum mismatch as a yardstick with which to measure a package that may be preferred on other grounds. Moreover, the procedure can help select alternative packages and can serve other goals than minimizing mismatch, such as that of fiscal equalization.

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In closing, Mr. Chairman, I want to say that I appreciate the opportunity to testify and hope that these findings are useful to your deliberations. The ACIR will continue to be available for technical assistance to those involved in the design and appraisal of policies for improving fiscal federalism. We would be glad to answer questions.

NOTES

1. To Form A More Perfect Union: Report of the Committee on Federalism and National Purpose, Daniel J. Evans and Charles S. Robb, Chairmen, published by the Project on the Federal Social Role, National Conference on Social Welfare, Washington, DC, November 1985.

2. State Aid to Local Government, A-34, U.S. Government Printing Office, Washington, DC, April 1969, esp. p. vi.

3. An Agenda for American Federalism: Restoring Confidence and Competence, A-86, U.S. Government Printing Office, Washington, DC, June 1981, pp. 111-112. Still more recently (December 1985) in a divided vote and without endorsing any specific programs or revenue sources, the ACIR urged consideration of turnbacks. In practice, a turnback package would return specified current federal programs to states and localities, along with indicated revenue sources to finance them. See Devolving Federal Program Responsibilities and Revenue Sources to State and Local Governments, A-104, U.S. Government Printing Office, Washington, DC, March 1986, esp. p. 4.

4. Analysis here is after transition is fully completed: 1994, according to one plan. Like the authors of the proposal, we consider it very important to cushion the transition to a rather different set of fiscal circumstances. Lack of space, however, prevents discussion of this key

concern. Also, because direct federal-local grants are included in the turnback package, it may be worthwhile for the transition period to include a pass-through guarantee that is simple and trustworthy.

5. Columns 1 and 2 show the additional federal funding that the swap proposal would provide for welfare and related programs. Estimates kindly provided by the Senate Subcommittee on Intergovernmental Relations. Effects of reduced payments for public housing, payment for long-term care, elimination of WIN, and a grant targeted to low fiscal capacity states are excluded. For this reason, and because the list of programs to be turned back (appendix Table A1) is only approximate, the figures are far from exact but are illustrative. Further details on the table and its construction are as follows:

The "average interstate deviation" shown at the bottom of the table summarizes state-to-state variation. It is the simple average of each state's difference from the U.S. figure, disregarding whether the state is above or below that average.

Column 3 shows each state's current federal funding of the grant-in-aid programs proposed for turnback; in aggregate, their cost almost exactly offsets the $12.8 billion in additional revenue estimated under the swap proposal. A major assumption lies here. State-local citizens and officials may not value the loss (say) of $200 million for a sewage treatment plant the same as they would value the gain of $200 million for means-tested programs. Indeed, whatever the weighting given to welfare programs, the loss of certain non-welfare grants may be but lightly felt if the affected programs are outworn, inefficient, or do not truly serve a state or city's needs. The present analysis, however, values each federal dollar equally, so the loss in grants for non-welfare programs (Column 3) is simply subtracted from the gain in welfare funding in Column 2. (The 24 current grant programs proposed for turnback are listed in appendix Table A1.)

Data on FY 84 obligations are used for the turnback (i.e., non-welfare) grant programs.

6. See Ch. 5 of the ACIR Devolving ... report previously cited for more information about the procedure, and other examples of its application. The grant programs in Table A2 were selected from a list of 177 that are illustrative of those appropriate for devolution.

7. Alternatively, the design procedure can be adjusted to be more equalizing. Conceivably, gains in high fiscal capacity states can be trimmed (or even reversed) in order to increase the gains where capacity is low. Most of the even allocation of Column 8 can be retained. This effort is underway.

8. Because the package is not exactly fiscal neutral, and there is a nationwide loss of $60 million, the aggregate gain is smaller than the aggregate loss by that $60 million.

Table A1

Modeling the Evans-Robb-Durenberger Proposal: The Twenty-Four Current Federal Grant Programs Proposed for Turnback

CFDA Number	Title of Grant-In-Aid Program	FY 84 Obligs. ($000)
11.300	Economic Development -- Grants and Loans for Public Works and Development Assistance	130,440
11.303	Economic Development -- Technical Assistance	8,436
11.304	Economic Development -- Public Works Impact Projects	33,982
11.305	Economic Development -- State and Local Economic Development	26,137
14.218	Community Development Block Grant -- Entitlement Grants	2,317,364
14.221	Urban Development Action Grants	644,471
14.228	Community Development Block Grant -- States' Program	964,034
20.500	UMTA Capital Improvement Grants -- Section 3	1,189,614
20.507	UMTA Capital and Operating Assistance Formula Grants -- Section 5	2,212,073
20.509	Public Transportation for Nonurbanized Areas -- Section 18	111,568
66.418	Construction Grants for Wastewater Treatment Works	3,558,102
84.048	Vocational Education -- Basic Grants to States	555,538
84.049	Vocational Education -- Consumer and Homemaking Education	31,011
84.050	Vocational Education -- Program Improvement and Supportive Service	98,473
84.052	Vocational Education -- Special Programs for the Disadvantaged	14,073
84.053	Vocational Education -- State Advisory Councils	6,404
84.077	Bilingual Vocational Training	3,401
84.083	Women's Educational Equity	5,152
84.099	Bilingual Vocational Instructor Training	1,542
84.121	Vocational Education -- State Planning and Evaluation	3,519
84.126	Rehabilitation Services -- Basic Support	1,014,680
84.128	Rehabilitation Services -- Special Projects	28,141
84.129	Rehabilitation Training	3,209
84.132	Centers for Independent Living	19,063

Source: ACIR staff, with data from the Senate Subcttee on Intergovernmental Relations.
Note: Obligation figures include grants to the District of Columbia not shown elsewhere. This is only an approximation to proposals now under consideration that follow the findings of the Evans-Robb Committee.

Table A2
Revising the Swap Proposal: Sixty-Six Current Federal Grant Programs to be Considered for Turnback

CFDA Number	Title of Grant-In-Aid Program	FY 84 Obligs. ($000)
10.156	Federal-State Marketing Improvement Program	961
10.418	Water and Waste Loans	265,706
10.418	Water and Waste Disposal Systems Grants for Rural Communities	99,047
10.500	Cooperative Extension Service -- 1862 Land Grant Universities	262,646
10.500	Tuskegee Institute	16,551
10.560	State Administrative Expenses for Child Nutrition	40,785
10.901	Resource Conservation and Development	8,021
10.904	Watershed Protection and Flood Prevention--Operations, Planning and Emergency Assistance	28,115
11.303	Economic Development -- Technical Assistance	8,436
11.305	Economic Development -- State and Local Economic Development	26,137
11.419	Coastal Zone Management Program Administration	14,414
11.420	Coastal Zone Management Estuarine Sanctuaries	1,596
11.427	Grants and Cooperative Agreements Program	10,939
13.116	Project Grants and Cooperative Agreements for Tuberculosis Control Programs	4,813
13.217	Family Planning Projects	131,976
13.224	Community Health Centers	338,301
13.242	Mental Health Research Grants	115,259
13.260	Family Planning Services	3,592
13.273	Alcohol Research Programs	20,823
13.381	Health Professions -- Financial Distressed Grants	5,600
13.600	Administration for Children, Youth and Families -- Head Start	949,513
13.776	Professional Standards Review Organizations -- Medicaid	14,643
13.822	Health Careers Opportunity Program	17,767
13.864	Population Research	90,570
13.886	Grants for Physician Assistant Training Program	4,415
13.891	Alcohol Research Center Grants	9,664
13.974	Family Planning -- Services Delivery Improvement Research Grants	1,952
13.977	Preventive Health Service--Venereal Disease Control Grants	41,903
13.978	Venereal Disease Research, Demonstration, Information and Education	1,969
14.218	Community Development Block Grant -- Entitlement Grants	2,317,364
15.600	Anadromous Fish Conservation	3,225
16.540	Juvenile Justice Block Grant	42,020
17.235	Senior Community Service Employment — National Program	244,400
17.246	Dislocated Worker Assistance	163,414
17.250	Job Training Partnership Grants to States (Disadvantaged Workers)	787,301
17.500	Occupational Safety and Health — State Operational Grants	3,796
20.308	Local Rail Service Assistance	22,547
20.500	UMTA Capital Improvement Grants -- Section 3	1,189,614
20.509	Public Transportaion for Nonurbanized Areas -- Section 18	111,568
45.116	Promotion of the Humanities--Summer Seminars for College Teachers	4,385
45.122	Promotion of the Humanities--Fellowships at Centers for Advanced Study	900
45.130	Promotion of the Humanities--Challenge Grants Program	18,259
45.132	Promotion of the Humanities--Research Materials Publications	487
45.133	Promotion of the Humanities--Humanities, Science and Technology	652
45.134	Promotion of the Humanities--Research Conferences	508
45.146	Promotion of the Humanities--Research Materials Editions	2,865
45.147	Promotion of the Humanities--Research Materials Translations	1,216
45.150	Central Disciplines in Undergraduate Education	5,938
72.002	Retired Senior Volunteer Program	28,310
72.011	State Office of Voluntary Citizen Participation	380
72.012	Volunteer Demonstration Program	2,636
84.002	Adult Education -- State Administered Program	96,971
84.003	Bilingual Education	110,587
84.008	Alcohol and Drug Abuse Education Program	2,801
84.010	Educationally Deprived Children -- Local Education Agencies	2,864,413
84.012	Educationally Deprived Children -- State Adminstration	33,144
84.014	Follow Through	11,987
84.039	Library Research and Demonstration	240
84.048	Vocational Education -- Basic Grants to States	555,538
84.049	Vocational Education -- Consumer and Homemaking Education	31,011
84.050	Vocational Education -- Program Improvement and Supportive Service	98,473
84.052	Vocational Education -- Special Programs for the Disadvantaged	14,073
84.069	State Student Incentive Grants	75,347
84.083	Women's Educational Equity	5,152
84.091	Strengthening Research Library Resources	6,001
84.121	Vocational Education -- State Planning and Evaluation	3,519

Source: ACIR staff calculations.
Note: Obligation figures include grants to the District of Columbia not shown elsewhere. These 66 programs were selected by ACIR staff using a computer-assisted procedure designed to minimize state-by-state fiscal mismatch.

To Form A More Perfect Union

The Report of the Committee on
Federalism and National Purpose

Daniel J. Evans and Charles S. Robb, Chairmen

◆

National Conference on Social Welfare
Washington, D.C.

Committee on Federalism and National Purpose

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Foreword

The Committee on Federalism and National Purpose was convened in the summer of 1984 under the auspices of the National Conference on Social Welfare's Project on the Federal Social Role. The Committee's mission has been to study and recommend what changes in federalism—our system of shared governmental power—are required to improve the ability of all levels of government, individually and collectively, to address major problems of nationwide concern.

Under the chairmanship of Senator Daniel J. Evans of Washington and Governor Charles S. Robb of Virginia, the Committee met six times between July 1984 and July 1985. At these meetings working papers and recommendations presented by subcommittees, staff, consultants and invited guests were discussed and debated. This report is based on those deliberations.

Federalism connotes a number of issues, including tax policy, regulation and constitutional questions. This report, however, focuses on problems of the intergovernmental grant system.

All members of the Committee endorse the basic directions of the report, although some may not be in full accord with particular recommendations.

Executive Summary

Our system of federalism needs a thorough overhaul. For all its strengths, the system designed "to form a more perfect union" has generated a complex of programs and regulations that too often defy common sense and frustrate the accomplishment of national purposes. The nation must find ways to "get more mileage" out of all levels of government if it is to meet the pressing domestic problems of today and the decades to come.

These problems are serious.

- Hard-core poverty and long-term unemployment persist. Too many of our children confront a world of limited hope and opportunity.
- The failings of our education system have been repeatedly documented. In the late twentieth century, millions of our citizens are functionally illiterate.
- Other national goals remain elusive. These include insuring equal opportunity for all Americans and adequately addressing problems of the environment, transportation, other elements of our national infrastructure, and high levels of crime.

On the horizon are other issues that we have only begun to tackle. We must ask ourselves tough questions during the coming policy debates, such as:

- How can we provide income support and health care for the increasing numbers of our elderly citizens?
- How will we counter the dislocations created by changes in our economic base and increasing foreign competition?
- Against the backdrop of massive trade and budget deficits, how can we take active approaches to eliminate poverty and unemployment?

In 1985 the federal government contributed more than $100 billion—one-fifth of total state and local spending—to the intergovernmental system that attempts to deal with these questions. More than 300 intergovernmental programs, ranging from small specialized grants to the tens of billions of dollars devoted to welfare, are among the primary means by which the nation tries to address domestic problems. For such a major investment of our national wealth, the current results fall far short of our intent.

It is time to face the fact that:

- Many programs are inefficient because responsibility for them is not clearly assigned to one level of government.
- Some shared programs are poorly designed, arbitrary and unproductive.
- Too many shared programs fail to build on the strength and dramatically increased capacity of states and localities.

We propose a fresh look at the federal system—a new division of labor. Our nation doesn't need big government or small government; it needs better government. To this end, we make the following recommendations:

The *federal government* should:

- Assume greater policy and financial responsibility for the two major shared welfare programs—Aid to Families with Dependent Children (AFDC) and Medicaid. It should establish uniform nationwide standards for eligibility, determine the minimum services to be provided by Medicaid, and provide a nationwide floor for AFDC benefits that (when combined with the value of food stamps) is between 75 percent and 90 percent of poverty-level income, with adjustments for geographic cost-of-living differences. It should contribute 90 percent of the funding for both programs up to the minimum benefit levels.
- Separate the long-term care component from the rest of the Medicaid program and finance that component by block grants to states, indexed for changes in the program's cost and the population it serves.
- Devolve to states and localities responsibility for many community development, local infrastructure and social service programs.
- Provide grants to supplement the general revenues of those states that have the lowest levels of fiscal capacity. Also, on an interim basis, provide transitional assistance to

localities. This should take the form of grants to states for distribution to those localities that have the lowest tax capacity and greatest need for public services.

- Target the remaining grants more effectively on the basis of need, place more emphasis on incentives rather than sanctions in managing them, and consolidate smaller grants (those under $100 million).

States and localities **should:**

- Continue to administer the AFDC and Medicaid programs. In the latter, they should place more emphasis on community-based long-term care systems as alternatives to nursing homes and hospitalization.
- Use the fiscal dividend gained from greater federalization of welfare programs, the proposed fiscal assistance grants, and their own resources to assume responsibility for devolved programs.
- Focus more intensively on the unresolved agenda of fiscal and regulatory issues between them.

All levels of government **should:**

- Launch a major effort to make employment programs more effective in helping welfare recipients to become self-supporting through work. To the maximum extent possible, convert welfare systems into job systems.

We regard these proposals as an interconnected package and support them on that basis. We realize that such changes are not likely to come about immediately and that they must be implemented within realistic fiscal constraints. But we strongly believe that they indicate the basic directions the federal system should take in the years to come.

The question of the relation of states to the federal government is the cardinal question of our constitutional system . . . [and] every successive stage of our political and economic development gives it a new aspect, makes it a new question.

Woodrow Wilson, 1908

Part One:
The Future of Federalism

The Challenge for Federalism

American federalism is behind the times. It is out of step with the realities that face our nation today. The national government is involved too little where it is uniquely equipped to perform well, and too much where states and localities could do the job better.

This country's system of federalism was created "to form a more perfect union." The United States has never accepted the idea that national purposes can be achieved only by its national government. Instead, our political system entrusts responsibility for many nationwide concerns to states and localities or to all three levels of government acting together.

To function successfully, such a system must be flexible. American federalism has proved durable and effective because it has undergone a continuing evolution. During most of this century that evolution has been toward both the assumption of greater responsibilities by the federal government and the creation of a greater number of shared programs in which two or more levels of government participate.

Our system of federalism needs a thorough overhaul.

For the most part, these developments have taken place for good reasons, and the nation has benefited greatly. At the federal level, counter-cyclical fiscal and monetary policy and programs of income support for the elderly have created a large measure of economic security for the country as a whole. Intergovernmental community development, infrastructure and welfare programs have improved the lives of millions.

This arrangement of governmental responsibilities has accomplished a great deal, but "to form a more perfect union," much more needs to be done.

Many important domestic problems are still not adequately addressed. Among these are the problems of hard-core poverty, long-term unemployment and increasing numbers of children reared in single-parent families. The nation is also troubled by inadequacies in its educational system, the decay of many central cities and continuing problems of equal opportunity and crime. Maintaining and improving our transportation network and other physical infrastructure and protecting the quality of our environment also continue to be pressing national needs.

Looking to the future, we should be preparing to support a large elderly population and to adjust to the dislocations that foreign competition and changes in the structure of our economy have already begun to create. We should also be anticipating the needs of a work force that in the future will be relatively smaller and composed of a larger percentage of women and members of minority groups.

Our failure to resolve social problems is in large part a failure of the intergovernmental system.

The failure of the United States to come to grips with these and other domestic problems is partly a failure of specific policies. But the nation is unlikely to find and implement new policies unless we realize that our failure to resolve social problems is in large part a failure of the intergovernmental system as well. The growth of federal responsibility and of shared programs that have made so many of our past accomplishments possible has also created obstacles to further progress.

The intergovernmental system has become far too tangled and complex.

- The efficiency, responsiveness and initiative of all levels of government have been blunted. Even with recent changes, there are too many shared programs—currently more than 300, totaling over $100 billion in federal expenditures.[1]
- The federal government has taken on an unmanageable burden of responsibility, while the abilities of states and localities are not being properly utilized.
- There are too many layers of regulation and red tape, and there is too much emphasis on punitive sanctions rather than on incentives to do a good job.

Most important, this system has resulted in programs that fail to make adequate and equitable provision for our citizens' most basic needs. For example:

- The two major intergovernmental welfare programs (Aid to Families with Dependent Children and Medicaid) vary enormously in different parts of the country. AFDC benefits are five times as high in some states as in others, and in many states provide under 60 percent of poverty-level income, even when combined with the cash value of food stamps.

- Inadequate effort is made to help welfare recipients become self-sufficient through work.
- The Medicaid program encourages the use of expensive hospitalization and nursing homes rather than less expensive and more humane community-based services to provide long-term care.
- Attempts to manage some shared community development, local infrastructure and social service programs by "remote control" from Washington too often create bureaucratic duplication, inefficiency, waste and delay in meeting essential needs.
- Sanctions built into some intergovernmental programs often punish the public more than the program administrators they are intended to control.

Our tangled web of government was created in part because states and localities were deemed unable or unwilling to tackle many social problems. This is far less true today.

> *We should be preparing to support a large elderly population and anticipating the needs of a work force that will be relatively smaller and composed of a larger percentage of women and members of minority groups.*

Most states have developed a high quality of leadership and administrative capability. Reapportioned legislatures, updated constitutions and more powerful revenue systems have had a dramatic impact. Many states have shown tremendous capacity for innovation in education, economic development, controlling health care costs and other fields. Moreover, the efforts of states to cushion the effects of recent federal budget cuts strongly suggest that key national priorities are embedded in their political culture.

Limited fiscal capacity, however, still handicaps some states, central cities and distressed rural areas. Because their economies are less prosperous, they are unable to raise the revenues needed to support levels of service that are possible for more affluent jurisdictions. This imbalance should be corrected.

The key to the future of federalism rests with our ability to build an intergovernmental system that draws on the best of each level of government, and at the same time reduces or eliminates needless government regulations. States and localities must take on greater responsibility for many programs that are currently shared; other shared programs must become more completely the responsibility of the federal government.

In an environment of high federal deficits, systematic change may seem difficult to accomplish. But fiscal pressures on the federal government make a planned and thoughtful evolution of the federal system all the more important. A greater separation of responsibilities among levels of government would be essential under any circumstances; it is imperative at a time when the nation needs to get the greatest possible productivity from the public sector as a whole.

A New Division of Labor

This Committee agrees on the necessity for a greater separation of responsibilities. However, we do not agree on what the philosophical basis for such a change should be. In this respect our views mirror those of the nation as a whole. The United States has never developed a commonly held philosophical rationale for division of labor within the federal system.

Some of our members, like many other Americans, believe that any change in intergovernmental relations should be premised on a preference for localism: not only is government close to the people more accountable, but states and localities have now emerged as dynamic entrepreneurs and strategic planners. Other members proceed from a centralist assumption: states and localities must demonstrate that they can carry out responsibilities better than the federal government, which has greater resources and scope, and is responsible to the nation as a whole. Still others have a more pragmatic bias: there is no inherent superiority in any level of government because the standard of judgment should be which can do a better job in each particular case.

Fiscal pressures on the federal government make a planned and thoughtful evolution of the federal system all the more important.

Despite these disagreements on underlying principles, we agree on certain guidelines that should be observed in restructuring intergovernmental relations, on the direction that a greater separation of responsibilities should take, and on a wide range of specific changes that should be made in particular shared programs.

To begin with, there is the question of who decides about three functions of government.

- *The policy function*—determining the goals and standards of a program.
- *The financial function*—providing funding for the program and deciding how much is provided.
- *The administrative function*—delivering a government service and deciding on the delivery system.

Shared programs are those in which responsibility for these functions is divided or duplicated. Separating responsibility for programs among levels of government involves either reducing overlap (by placing responsibility for each function wholly in the hands of one level of government) or concentrating authority (by placing all or most functions with the same level) or both.

The United States has never developed a commonly held philosophical rationale for division of labor within the federal system.

We do not believe there are any hard and fast rules about which levels of government can perform which functions best. In some cases there may be constitutional implications of choosing one level or another (e.g., when the federal government is constitutionally mandated to perform certain tasks or when state functions may have constitutional protection). Otherwise, experience and common sense suggest the following guidelines for intergovernmental division of labor.

The federal government should have responsibility for programs or functions when:

- nationwide uniformity of policy, finance or administration is important;
- it is necessary to raise revenues from the nation as a whole and distribute them to various parts of the country.

States and localities should have responsibility when:

- diversity of policy, finance or administration is important—when solutions to problems should be tailored to different regions and localities;
- experimentation by officials responsible to local electorates and their knowledge of local conditions are key to meeting public needs.

Where state constitutions do not mandate action specifically at the state or local level, states, as distinguished from localities, should have responsibility when:

- local government boundaries create barriers to effectively raising revenues and delivering services;
- resources and responsibilities must be distributed among localities and there is no overwhelming reason for the federal government to decide how they should be distributed.

These guidelines do not incorporate all the criteria that should be used in organizing the federal system. Nevertheless, they indicate the basic directions for separating responsibilities among levels of government.

Recommendations for Reform

Our recommendations for reform center on the intergovernmental programs to which the largest amounts of federal funding are currently directed.

We have devoted much of our attention to welfare programs, specifically Aid to Families with Dependent Children (AFDC) and Medicaid. These are the two largest shared welfare programs, and together they account for more than 25 percent of federal spending through the intergovernmental system. We have also considered manpower, community development, infrastructure and revenue sharing programs. (A description of these and other major intergovernmental programs appears in Appendix A, page 30.)

Our recommendations should be regarded as an interconnected package of reforms.

Because any proposals for reform in these areas have ramifications at each level of government, our recommendations should be regarded as an interconnected package of reforms: we would stand behind all of them collectively, but we would not necessarily support any one recommendation taken in isolation.

Our recommendations are far-reaching and will take several years to implement correctly.

In summary, our recommendations are:

Welfare

1. The federal government should establish national minimum benefit levels and eligibility standards for the AFDC and Medicaid programs. In the case of AFDC it should establish a national floor that, when combined with food stamps, is between 75 percent and 90 percent of poverty-level income.

2. It should assume full policy responsibility for these programs, as well as 90 percent of the financial responsibility up to the minimum benefit levels.

3. States should maintain administrative responsibility for AFDC and Medicaid.

4. The employment programs supporting AFDC should be strengthened by expanding education, training and placement activities. To the maximum extent possible, welfare systems should be converted into job systems.

5. The long-term care component of Medicaid should be converted into a federal block grant to states, indexed for changes in the program's cost and the population it serves.

Our nation doesn't need big government or small government; it needs better government.

Devolution

1. States and localities should assume full financial, policy and administrative responsibilities for many community development, local infrastructure and social service programs.

2. States and localities should address more effectively the agenda of unresolved issues between them, such as state mandates, regulation and local revenue-raising options.

Fiscal Support for States and Localities

1. To help states meet their present and future service obligations, the federal government should provide general support grants targeted to states with very low fiscal capacity.

2. Until the effects of devolution can be clearly assessed, a transitional federal assistance program should be established, administered by states and targeted by them to localities with the greatest problems of fiscal capacity.

Intergovernmental Programs

Greater use should be made of incentives rather than sanctions to hold states and localities accountable.

1. Remaining shared programs should be better targeted to the most needy beneficiaries and localities. More reliance should be placed on states to accomplish this targeting.

2. Greater use should be made of incentives rather than sanctions to hold states and localities accountable.

3. Many of the more than 200 intergovernmental programs funded by the federal government at under $100 million should be consolidated into block grants or folded into existing programs.

Part Two: Review of Recommendations

Welfare

Uniformity and Adequacy

The benefits paid and the services provided by AFDC and Medicaid should be more uniform.

Currently, these two safety net programs epitomize the complexity and frustrated purposes of the intergovernmental system. The federal government matches state financial contributions to both programs, and policy responsibility is divided among federal, state and local officials. States and localities are responsible for administration, and a maze of regulations and requirements connects all three levels of government.

In the case of AFDC, shared responsibility has resulted in a wide variation of benefit levels and eligibility criteria across the nation. For example, in January 1985, the maximum AFDC grant for a family of three was $555 in California and $118 in Alabama. (Appendix A, Table 2, page 34 documents the full range of AFDC benefits.) In some states eligibility ends when family income exceeds 49 percent of poverty-level income; in other states it extends to families with incomes equal to or above the poverty threshold.[2]

Americans are entitled to more equal treatment by programs intended to provide the basic necessities of life.

Likewise, eligibility requirements and services available under the Medicaid program vary widely. The percentage of poor children receiving Medicaid benefits ranges from 20 percent in Wyoming to 74 percent in the District of Columbia.[3] These variations cannot be explained by differences in either the cost of living or fiscal capacity.

Americans are entitled to more equal treatment by programs intended to provide the basic necessities of life. Wherever it occurs, poverty is a blight on our whole society, and Americans in similar circumstances should be treated alike. Children whose early years are damaged by the effects of poverty in one state may later become voters, employees and possibly welfare recipients in other states.

Safety net programs should also furnish benefits that can be expected to provide for basic necessities. Welfare programs in many states fall far short of this mark. Even when combined with the cash value of food stamps, AFDC benefits were at or below 60 percent of poverty-level income in 10 states in 1984, and the median level of benefits was 73 percent of the poverty line.[4]

Only the federal government can effectively bring about greater uniformity and adequacy of welfare services. This is both because it is the only source of nationwide political authority and because it is the only level of government that commands the necessary resources. This logic has been applied to most national income support programs, such as Social Security retirement, Medicare, Food Stamps and Supplemental Security Income (SSI), and it should be applied to intergovernmental welfare programs as well.

Only the federal government can effectively bring about greater uniformity and adequacy of welfare services.

Specifically, we believe that the federal government should:

- Establish nationwide benefit floors for AFDC and Medicaid. In the case of AFDC that floor should be set at a level somewhere between the median level of benefits now provided and the highest level. This floor would be a cash grant which, together with the value of food stamps, would equal between 75 percent and 90 percent of poverty-level income. The floor should be adjusted for geographic cost-of-living differences.
- Set uniform eligibility standards for both AFDC and Medicaid. This should include nationwide application of the present AFDC-Unemployed Parent (UP) program (which provides benefits to intact families living in poverty when the principal earner is unemployed). It should also include nationwide application of the provisions of Medicaid for coverage of the medically needy (which currently extends protection to certain categories of poor people who are not eligible for income support programs). At present 23 states participate in AFDC-UP, and 36 states extend benefits to the medically needy, using differing standards of eligibility.
- Provide 90 percent of AFDC and Medicaid funding up to the minimum benefit floors, with states providing the remainder, in order to insure adequacy and equal treatment.

States should continue to administer these programs because they have developed valuable expertise in performing this function and because the programs should be closely linked at the administrative level with other programs (such as education, training and personal social services) for which they have responsibility. To receive federal assistance, states should be required to provide 10 percent of the benefit floors. This arrangement would give them a continuing financial stake in sound administration.

These changes will streamline and strengthen welfare programs by creating a more clear-cut division of intergovernmental functions and a benefit structure more responsive to national needs. But changes in two other aspects of these programs are also required if the nation is to address more effectively the problem of poverty.

Employment

The AFDC program should place far higher priority on helping long-term beneficiaries become self-sufficient through work.

All able-bodied participants in the program should clearly understand that benefits will be provided only on two conditions: (1) that they participate in education, training or placement activities which can be expected to lead to full-time employment; (2) that they accept work when it is offered and become self-supporting as soon as possible.

Cash benefits by AFDC and other programs only alleviate the problem of poverty, rather than attacking its root causes.

In short, all able-bodied beneficiaries must do something: either find work or make a serious effort to improve their job skills and search for work.

These conditions, in turn, place an obligation on government to provide substantial education, training and placement assistance and to stimulate job creation where necessary.

In a nation with a strong work ethic, the public rightly expects recipients of welfare benefits to find employment whenever possible. Moreover, the provision of cash benefits by AFDC and other programs only alleviates the problem of poverty, rather than attacking its root causes.

Welfare beneficiaries will remain poor unless they find a place within the regular, full-time work force. Most poor people who are capable of working want to find jobs, and the nation as a whole has a strong interest in providing them with an opportunity to contribute to the world of work. Idleness and dependency are a waste of valuable human resources.

Employment has long been a goal of the AFDC program, but national policy to accomplish this goal has been largely ineffective. The major problems arise with regard to long-term beneficiaries—those who are dependent on the program for two years or more. Typically they have very limited skills and work experience and are extremely hard to place. Under current policy they are required to register for placement assistance or training provided by the Work Incentive (WIN) program and to accept work if it is offered, and they may also receive assistance from the Job Training Partnership Act (JTPA) and other programs. Partly because the funds available to these programs have been limited and partly because the task is extremely difficult, only limited success has been achieved.

The nation should enhance the employment prospects of the poor at the same time that it provides more uniform and adequate welfare benefits.

Recent experience in Massachusetts, Maine, Virginia and other states, however, has shown encouraging results. Massachusetts officials report that their program, ET: CHOICES, has placed 20,000 AFDC recipients in private employment, with savings to taxpayers of $60 million.[5] In addition, large-scale experiments by the Manpower Demonstration Research Corporation and other research groups have shown that still more can be done. All of these efforts have involved carefully tailoring a combination of counseling, training, child-care, other social support services and work experience to the needs of individual recipients. Employment of welfare recipients has been increased, and states and localities have demonstrated their commitment and capacity to make major efforts in this area.

States and localities should be encouraged to assume leadership in experimenting with new approaches for converting their welfare systems into job systems. They should have a high degree of flexibility in designing programs and coordinating them with their overall welfare plans. The federal government should provide suitable resources and incentives to encourage these developments.

In short, the nation should make a major effort to enhance the employment prospects of the poor at the same time that it provides more uniform and adequate welfare benefits. The federal government should take primary responsibility for improving welfare assistance, while states and localities can and should take the lead in job programs and integrate them with their economic development plans.

Long-term Care

In addition to acute-care services, Medicaid provides long-term care services for the elderly, disabled and mentally retarded. For the most part long-term care is not a medical problem. By treating it as such, Medicaid and other programs have created an over-reliance on nursing homes and hospitalization, rather than the use of less costly and more humane alternatives, such as home care and community support services. Because the need for long-term care will increase over the coming decades due to growth in the size of the nation's elderly population, it is essential to develop more efficient and humane systems for providing it.

> *Because the need for long-term care will increase over the coming decades, it is essential to develop more efficient and humane systems for providing it.*

To encourage the development of better systems, the non-medical component of long-term care should be separated from the rest of the Medicaid program.

The federal government should assume responsibility for financing this component by providing block grants to the states, indexed for changes in the program's cost and the population it serves. States, however, should have policy and administrative responsibility within broad federal guidelines. While this system should achieve cost savings, the block grants will probably have to become larger as the need for long-term care increases.

Our recommendations would simplify the relationships between levels of government in providing this very complex and costly service. They would also encourage greater experimentation, flexibility and broadening of alternatives for care. In all of these respects, a restructured long-term care system would better meet public needs.

Devolution

States and localities should assume full financial, policy and administrative responsibilities for many community development, local infrastructure and social service programs.

This recommendation assumes a greater federal role in AFDC and Medicaid, as we have proposed, and retention of a strong federal role in other safety net programs for at-risk or vulnerable groups, such as preschool children and the handicapped.

Examples of the types of programs we have in mind for transfer are Community Development Block Grants, Urban Development Action Grants, programs of the Economic Development Administration, mass transit, local service streets and highways, wastewater treatment, new subsidized housing commitments and Title XX social services.

Devolution should not be equated with elimination.

Programs of this kind unquestionably serve important national purposes. The nation is made up of individuals living in particular states and localities, and among the many important aims of government are certainly improving the quality of their neighborhoods, roads and public facilities; bringing them to jobs and jobs to them; and meeting their highly varied personal needs when family or voluntary support systems are unavailable.

But responsibility for advancing these national purposes can and should be entrusted to states and localities. Federal funding and policy direction for many of these programs should be terminated.

This does not mean that we believe the services provided by these programs should be discontinued. On the contrary, we believe they should contine to be provided, and will be provided better, by states and localities.

Devolution should not be equated with elimination.

States and localities are as committed to the well-being of their citizens as the federal government is. In fact, the types of programs we recommend for devolution vividly demonstrate their commitment. Many of these programs consist largely of federal grants for projects designed, implemented and partly funded by states and localities. There is a sense in which they typify the intergovernmental system operating at its best: the federal government invites initiatives from states and localities in areas of high priority and supports the initiatives that federal officials believe are best designed and meet the most pressing needs.

But there is another sense in which programs of this kind embody all of the most troublesome aspects of contemporary federalism. Even admitting that the federal government has performed a valuable service by raising certain priorities for states and localities, why should it continue to supervise programs once those priorities have been adopted by other governmental levels? Why should it, rather than states and localities, decide which specific projects are most worthy? Or, why, for example, should it decide how much funding to devote to mass transit as opposed to neighborhood improvement?

All programs of this kind have at least two things in common: the projects that comprise them are local in their impact, and they take very different forms in each state and locality. To manage them effectively at all involves tailoring each project to meet local circumstances. Moreover, to serve the public most effectually the mix of resources that should be devoted to different programs will differ in each state and locality. Unlike welfare programs, their design and relative level of funding should not be uniform. To advance the national purposes they are intended to serve, design and funding should be extremely diverse.

By placing significant financial and policy responsibility for these programs with the federal government, the intergovernmental system skews priorities, creates delay and often raises costs through complex bureaucratic procedures. Decisions are made at the federal level where officials are least acquainted with local circumstances and least accountable to local constituencies that will feel the effects of those decisions. Too much reliance on shared programs may also have a chilling effect on state and local activism: officials at these levels may at times hold back on addressing public problems because they presume that initiatives, funds and guidelines will be forthcoming from Washington.

If states and localities are capable of designing, implementing and often partly funding these programs, they are also capable of taking on full responsibility for them without federal strings.

If states and localities are capable of designing, implementing and often partly funding these programs, they are also capable of taking on full responsibility for them without federal strings. Devolution would reduce the administrative burden of all levels of government, set priorities more closely attuned to local needs, and create greater accountability to the voters who are most immediately affected.

It is essential to transfer financial as well as policy and administrative program responsibilities. As long as the financial umbilical cord to the federal government remains, community development, local infrastructure and social service programs will continue to contribute to the intergovernmental tangle. Cutting that cord by devolving a substantial number of these programs would advance a wide range of national purposes.

Some people argue that transferring these programs to states and localities that may not have the tax capacity to support them will create even greater problems. We address this issue with our next recommendation.

Fiscal Support for States and Localities

The federal government should provide grants to supplement the general revenues of those states and localities that have extremely limited tax capacity and/or exceptionally great needs for public services.

There can be no doubt that some states and localities are less affluent or have more severe problems to solve than others.

Differences in fiscal capacity among states and localities have long bedeviled the federal system. There can be no doubt that some states and localities are less affluent or have more severe problems to solve than others. By one recent estimate, the least affluent states with greatest needs would have to carry more than twice as large a tax burden to provide the same level of services as less troubled areas.[6] Such a high level of taxation would be unrealistic and unacceptable to voters. Often, too, raising taxes dramatically would be a self-defeating action because it would discourage badly needed business investment in less affluent areas.

These problems of fiscal capacity are one reason why the present system of shared intergovernmental programs has developed. Since some states and localities could not afford to support many programs to achieve national purposes, federal assistance was extended to all. The result of this logic has been that federal programs that require state and local matching funds have tended to increase the total level of spending by more and less affluent jurisdictions alike and to channel it according to federally established priorities.

Another federal response to inadequate fiscal capacity has been the General Revenue Sharing program. Although somewhat tilted toward helping less affluent areas, this program has been restricted in its ability to relieve the fiscal capacity problem. Its funds are distributed among nearly 40,000 localities.

Fiscal Capacity Grants for States

We believe that the problem of fiscal capacity should be approached in a more straightforward way. To begin with, there are not enormous differences among states. Other than a dozen or so significantly less affluent states, and a few with exceptionally great resources, most are close to the national norm. (See Appendix B, pages 36–40.)

To help the least affluent areas provide essential public services at a minimal level of adequacy, the federal government should provide a system of fiscal capacity grants to states. These grants could be used by state governments for any purposes. In essence, they would be general purpose revenue supplements. But they should be provided *only* to the dozen or so states with the least resources and the greatest need for public services. Grants should be set at a level that will provide some significant help to the least affluent states in making essential services available, but the federal government should not attempt to equalize state resources on a nationwide basis.

Grants should help the least affluent states in making essential services available.

Our proposals largely to federalize AFDC and Medicaid will mean some fiscal relief for most states. But poorer states that generally pay the lowest benefits under these programs will receive the least relief, and in a few cases may be net losers. This, together with the added burden of devolution, indicates that our other proposals do not diminish the need for some form of general purpose federal support targeted to the least affluent areas.

Concerns might arise about this proposal if states with low fiscal capacity were not making a best effort to meet public needs. In this case, citizens in other parts of the country might be reluctant to help. At present, however, most of the less affluent states have levels of tax effort close to the national average. (See Appendix B, Table 1, page 37.)

Transitional Assistance Grants for Localities

When the devolution we propose takes place, cities and distressed rural areas with the greatest problems and/or limited tax capacity will have to look to their state governments for assistance. States will have to do more to meet both the needs of these localities and a variety of other public needs. The scope and dynamism of states' recent peformance in economic development, education and other fields indicate that they can and will do more.

Unlike most localities, states can aggregate large resources and distribute them to areas of greatest need. Unlike the federal government, they are not burdened with other nationwide priorities, and they are sensitive to the best mechanisms for delivering services in their jurisdictions. If a combination of our welfare reform and fiscal capacity grant proposals places states on a more level playing field, there is no inherent reason why they cannot address the problems of hard-pressed localities as well or better than the federal government does.

A transitional assistance program for localities should provide grants to states for distribution to those localities most in need of assistance.

While there are many positive aspects to state-local relations, there are also continuing areas of tension. Among these are unresolved issues of state mandates, regulations and local revenue-raising options. States and localities should overcome their differences on these issues in any event, and the policy changes we propose will make it all the more imperative that they develop new and more mutually supportive relationships. In a diverse nation such as ours, these adjustments will inevitably differ state by state.

Achieving a new relationship between states and localities may take some time, however. Because the programs we would devolve address major national priorities, it is important to insure that this relationship will be responsive to public needs. In the interim, we believe that a transitional federal grant program to assist localities should be established.

Unlike the present revenue sharing program, a transitional assistance program for localities should provide grants to states for targeting and distribution to those localities most in need of general purpose assistance. All states should receive grants, but the program should stipulate that only a certain percentage of localities (perhaps containing no more than 30 or 40 percent of a state's population) be aided.

Over time, state and local tax policies and state aid patterns will adjust to both the devolution of federal programs and the greater federalization of AFDC and Medicaid. While a transitional grant program can smooth this process for localities, it is not intended to replace fully or permanently the federal assistance they would lose through devolution. Rather, it is intended to provide lead time for adjustments to a new fiscal and policy environment.

Intergovernmental Programs

Programs should be seen as a function of problems and not as permanent fixtures. We do not believe that all intergovernmental programs should be eliminated; but we believe that there should be fewer of them, and that they should be managed more effectively.

A major strength of American federalism is its capacity to adapt to changing circumstances. The American people created the federal system; and they do and should use it in any way they see fit, including the creation of shared programs, wherever these are the best response to public needs.

Although we believe that the public interest would be better served with fewer intergovernmental programs, our recommendations would maintain a substantial amount of shared responsibility between levels of government. For example, welfare programs would still be shared (even if streamlined) because states would retain administrative and some financial responsibilities; and we do not expect all community development, infrastructure and social service programs to be devolved. Moreover, while a torrent of new shared programs would not be desirable, future national needs may well warrant the creation of other intergovernmental initiatives.

To achieve national purposes, more rational management of remaining intergovernmental programs is essential.

To achieve national purposes, more rational management of remaining intergovernmental programs is essential. We believe that much progress can be made toward untangling the intergovernmental process if these programs are more selective and better targeted, and if states are held accountable less by punitive sanctions and more by incentives for good performance.

A great deal of complexity could be eliminated from the intergovernmental system if many of the over 200 shared programs the federal government funds at under $100 million were consolidated into a limited number of new block grants or if they were folded into existing programs. (See Appendix C, pages 41–52, for a list of these programs.)

Greater selectivity and targeting would also reduce the waste and confusion in the intergovernmental system. Because too many programs now aid all possible beneficiaries, limited funds are dissipated, and those most in need do not receive enough help. If the goals of programs were more clearly set and more closely focused on the populations or areas of greatest need, intergovernmental programs would have more impact, more straightforward administrative practices could be developed and "gamesmanship" in federal grant-seeking could be reduced.

States can and should play an important role in targeting intergovernmental funds. State officials are often the best authorities on how program goals can be reached in their jurisdictions. They already make these decisions on a day-to-day basis in administering both shared and completely state-managed programs. They are also more sensitive than their federal counterparts to how programs interact at the operational level and more adept at finding the best ways to combine and adapt program structures to meet local needs.

Duplicating state expertise at the federal level is both wasteful and cumbersome.

Duplicating state expertise at the federal level is both wasteful and cumbersome. More intergovernmental programs should be cast in the mold that we have set for transitional assistance grants to localities: clear federal objectives for targeting should be set, and states should be held accountable for implementing them.

Today accountability generally means federal sanctions, such as reduced financial support. This approach often is self-defeating, and it creates perverse incentives. The intended beneficiaries of programs suffer more than anyone else, and states are encouraged to concentrate more on avoiding administrative mistakes than on getting the job done.

Greater reliance on incentives is a better way to create accountability. For example, it would be more productive to provide increased resources to reward those states that make the greatest progress in reducing error rates when calculating eligibility than to penalize them for falling below some arbitrary norm.

A more targeted and positive approach to intergovernmental programs and greater reliance on the resources of states are modest steps that would free all levels of government to pursue national purposes more effectively.

Financial Implications

Our recommendations propose major changes in a great many aspects of the intergovernmental system. These changes will have significant impact on the finances of all levels of government.

All members of the Committee are deeply concerned about present federal budget deficits and believe that they must be reduced. Because of this concern, we want to make clear that our *combination of proposals* for federalization, devolution and general purpose assistance to states and localities **could be implemented in a way that would be fiscally neutral for the federal government, and many members of the Committee believe that this should be a precondition** for implementing those proposals.

Our primary goal, however, is not to write a budget document for any level of government in any year. Instead, our goal is to set forth sound principles for improving the federal system and the basic directions that system should take. Financially, our recommendations would result in a series of offsetting costs and benefits to different levels of government that could be combined to have a fiscally neutral effect for *any* level of government without doing violence to the principles we have set forth.

Our primary goal is not to write a budget document, but to set forth sound principles for improving the federal system.

Also, we assume that our recommendations can be fully implemented only over a period of some years. The financial position of all levels of government may well change over that time. This will and should have an effect on the details of how the recommendations are carried out.

Because there are many different ways to implement our recommendations, both individually and collectively, the clearest way to discuss their financial implications is to explain the range of costs that might result from each recommendation taken in isolation.

Our proposal to increase federal responsibility for AFDC and Medicaid costs from about 54 percent on average to as much as 90 percent would result (if fully implemented in 1985) in increased federal costs of $20 to $30 billion, depending on exactly what benefit, eligibility and service levels were established. Greater federal spending on these programs would relieve most states of substantial financial obligations. Those states that currently pay high AFDC and Medicaid benefits would gain the most from this change because the federal government would be removing a larger burden of welfare spending from their budgets than from the budgets of low-benefit states.

It is possible that this change might impose additional costs on the few states with very low benefits, depending on precisely where the federal floor for AFDC is established. Paying 10 percent of a benefit level that is at or substantially above the current national average might cost those states more than present arrangements under which they pay as little as 22 percent of a lower benefit level. In most cases, however, our recommendations for AFDC and Medicaid would create a substantial financial bonus for states.

Our combination of proposals could be implemented in a way that would be fiscally neutral for the federal government.

Our recommendations for devolution would place large additional responsibilities on both states and localities, primarily on the latter. Either directly or through states, localities receive substantial support from federal community development, local infrastructure and social service programs. How large a burden discontinuing these programs would place on localities depends on exactly which programs are devolved, what savings result from uncluttering the intergovernmental system, and how large the subsequent state and local effort to perform devolved functions turns out to be.

At the lower extreme, devolving only UDAG and other small community development programs, for example, would impose additional costs on localities of about $1 billion, assuming that their efforts were equal to present federal spending.

At the higher end, a devolution package could be created that was equal to or greater than the additional cost the federal government would incur by assuming greater responsibility for AFDC and Medicaid.

To help them assume the increased costs of devolution, most states and some localities would receive large financial benefits resulting from greater federal assumption of AFDC and Medicaid responsibilities, and some would receive help from our general purpose fiscal assistance proposals.

Like the cost of devolution, the cost of fiscal capacity grants for states could cover a wide range. For example, if the goal in 1985 were to increase the revenues of the 12 states with the lowest fiscal capacity to within 10 percent of the median per capita revenues for all states, about $3 billion would be required. Both definitions of fiscal capacity and the precise program design require more extensive analysis. In addition, any program should recognize differences in "need" for services.

The cost of transitional assistance grants for localities could also vary widely, depending on how large an effort is made to compensate for the effects of devolution. If, for example, the goal in 1985 were to provide targeted transitional assistance in place of several current programs—wastewater treatment, mass transit, CDBG, and general revenue sharing, as well as the smaller economic development programs—a $3 billion fund would be adequate to replace between 20 percent and 30 percent of current funding. The objective of transitional assistance grants, however, should not be to "hold harmless" localities that would be faced with greater responsibilities, but to cushion the impact of devolution until adjustments can be made in state and local fiscal systems to accommodate it.

It is far more important to assess whether the people, rather than particular levels of government, are "winners" or "losers" from any system of federalism.

The overall financial implications of our recommendations, both individually and collectively, therefore, could cover a wide range. We do not specify exactly where they should fall within that range. The purpose of the intergovernmental system should be to serve the American people as effectively as possible, not to keep government budgets at some arbitrary level. It is far more important to assess whether the people, rather than particular levels of government, are "winners" or "losers" from any system of federalism. Our recommendations show how the *structure* of the federal system can and should change to benefit the American people. We believe that these changes can and should be made within realistic financial constraints.

Footnotes

1. Unpublished table on the budget concept of grants, U.S. General Services Administration, Office of Information Resource Management, based on 1985 *Catalog of Federal Domestic Assistance*, November 1985.

2. U.S. Congress, House, Committee on Ways and Means, *Children in Poverty*, 99th Cong., 1st sess., May 22, 1985, p. 210.

3. Children's Defense Fund, *A Children's Defense Fund Budget* (Washington, D.C.: Children's Defense Fund, 1985), p. 263.

4. U.S. Congress, House, Committee on Ways and Means, *Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means*, 99th Cong., 1st sess., February 22, 1985, pp. 345–346.

5. *U.S. News & World Report*, October 28, 1985, pp. 58–59.

6. Based on "Fiscal Capacity, Tax Effort, and 'Need,' " *State Policy Reports* 3 (July 14, 1985): p. 20.

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The recommendations of the Committee are wholly independent of the National Conference on Social Welfare, the Project on the Federal Social Role or any of the sources of support for its work, none of which bear responsibility for the contents of this report.

Appendix A

Description of Selected Intergovernmental Programs

(See Table 1, page 33 for FY 1985 estimated federal obligations for these programs.)

Aid to Families with Dependent Children AFDC is a state-administered program that provides cash grants (with federal matching rates to states that range from 50% to 77.63%) for dependent children of indigent families in which one parent has died, is continuously absent from the home or is permanently incapacitated. Twenty-three states (plus Guam and the District of Columbia) also participate in the AFDC-UP program, in which two-parent families receive AFDC payments because of the principal earner's unemployment (working no more than 99 hours a month).

Child Nutrition Programs These federally funded programs, including the School Lunch, School Breakfast, Child Care Food, Summer Food Service, Commodity Assistance, and Nutrition Education and Training Programs, distribute funds to sponsoring institutions on the basis of per meal federal subsidies that are set by law and adjusted for inflation.

Community Development Block Grant CDBG allocates grants to large cities and urban counties (70%) and to state-administered programs for small cities (30%) to help provide decent housing and expand economic opportunities, principally for persons of low and moderate incomes.

Compensatory Education for Disadvantaged Children Formerly Title I of the Elementary and Secondary Education Act of 1965, Chapter I of the Education Consolidation and Improvement Act of 1981 is the largest federal program for elementary and secondary education. It supports the education of disadvantaged elementary and secondary students in nearly all school districts, with concentration in those districts with a higher percentage of poor children, by providing funds to help pay the excess costs of meeting these children's special educational needs.

Economic Development Administration EDA provides grants to states, communities and Indian tribes to assist in the construction of public facilities needed to initiate and encourage the creation of permanent private sector jobs in economically depressed areas.

Education of the Handicapped This program requires that a free appropriate education, as well as special education and related services, be made available to all handicapped children (age 3–21) regardless of the severity of their handicap, unless services to children age 3–5 or 18–21 are inconsistent with state legislation. States and localities receive grants on the basis of the number of children served.

Food Stamps This program uses food coupons to increase the food purchasing power of low-income households. With minor variations, the program is uniform nationwide, with the federal government paying 100% of benefits and federal administrative costs as well as 50% of most state and local administrative costs.

General Revenue Sharing GRS transfers resources raised by federal taxes to about 40,000 localities. The state share was terminated after 1980, and the Reagan Administration and Congress have proposed the current program's termination in FY 1987. Factors central to funding allocation include state population, personal income, tax effort and urbanized population.

Head Start This comprehensive child development program for disadvantaged three- and four-year-olds is designed to meet their educational, social, health, nutritional and psychological needs. It is financed by annual appropriations to local governments and nonprofit agencies, with funds distributed according to prior year funding, the number of children age 0–5 in poverty and the number of AFDC children in a state.

Housing Programs In addition to the Section 8 Lower-Income Housing Assistance and Public Housing programs that are described below, the federal government offers other housing assistance programs, many of which recently have been cut, capped or proposed for termination. The Department of Housing and Urban Development administers programs such as: *Section 202 Elderly and Non-elderly Handicapped Housing Assistance*, which authorizes federal loans at 3% interest to nonprofit organizations for construction, rehabilitation or alteration of rental housing for the elderly and handicapped; and the *Housing Voucher Demonstration Program*, which offers vouchers to eligible families with incomes not exceeding 50% of the area median income. The Farmers Home Administration, an agency in the Department of Agriculture, administers most rural housing assistance through programs such as the *Section 502* program for homeowners, which provides reduced interest rate loans for low-income borrowers, and the *Section 515* program, which supports the development of rental housing with loans for a 50-year term at a 1% interest rate.

Infrastructure Programs These programs address the problems of the country's basic network of facilities, including wastewater treatment, transportation (highways, bridges, and mass transit), and water supply and distribution. The federal government subsidizes state and local capital investment directly through grant programs and indirectly through state and local tax-exempt borrowing. The federal government provides a specific source of financing for the nation's interstate and non-interstate highway systems (as well as mass transit) through a *Highway Trust Fund* financed by user taxes on motor fuels and heavy highway motor vehicles.

Job Corps This program, Title IV, Part B of the Job Training Partnership Act, offers education, vocational training, work experience, personal travel and leave allowance, quarters and personal allowances to low-income youths. Its purpose is to assist young people who need and can benefit from an intensive program that is operated in a group setting to become more responsible, employable and productive citizens.

Job Training Partnership Act JTPA provides job training and related assistance to economically disadvantaged individuals, dislocated workers and others facing major employment barriers who are in need of such training to obtain productive and permanent self-sustaining jobs. JTPA is financed though a block grant to states, with 70% of the funds mandated for direct training costs.

Maternal and Child Health Services Block Grant MCH consolidates eight federal grants to assure mothers (especially those with low incomes) and their children access to maternal and child health services and to reduce the rate of infant mortality, preventable diseases, and the need for long-term care services. MCH mandates a matching requirement of $3 of state funds for every $4 of federal funds.

Medicaid Medicaid is a state-administered medical assistance voucher payment program for low-income individuals and families who are actual or potential beneficiaries of AFDC, SSI, and (in 36 states and jurisdictions) "medically needy" programs. Payments are made directly to service providers, with funds coming from both the states and the federal government, which contributes an average of 54% of costs, although this share ranges from 50% to 77.63%.

Public Housing The goal of federal aid to public housing agencies (PHAs) is to provide low-income renters with safe and sanitary housing and to alleviate the shortage of dwellings for this population. HUD pays the full development and financing costs as well as a share of operating expenses for most public housing agencies.

Section 8 Low-Income Housing Section 8 subsidizes low-income dwellers in newly built, rehabilitated or existing physically standard dwellings. Since 1980, funds have shifted to existing housing stock. In 1983 the authority to make commitments for new construction was repealed, except for units designed for the elderly. Tenants contribute a fixed percentage of their income toward their own housing costs. The federal government pays property owners the difference between tenant contributions and units' full market rents.

Supplemental Security Income SSI is a federally administered income assistance program that provides monthly cash benefits to needy aged, blind and disabled persons in accordance with uniform national eligibility requirements. Federal SSI benefits and the cost of administration are financed by federal revenues. All but seven states have chosen to supplement the federal program.

Title XX Social Services Programs Title XX services include home-based care, day care and protective and emergency services for children and adults, social support services, adoption and disabled services to help people achieve economic self-support and to address problems of dependency, neglect and abuse, and inappropriate institutional care. Funds are allocated to states on the basis of population.

Unemployment Compensation UC provides partial and temporary wage replacement to qualified unemployed workers to assist them during periods of temporary and involuntary unemployment. Each state establishes its own eligibility requirements, the number of weeks individuals can collect benefits and their weekly amounts, the circumstances under which benefits can be denied and the length of this denial, and the state unemployment tax structure. UC is financed by state and federal payroll taxes on employers. The Extended Benefits Program, half of which is financed by the federal government, provides one-half of a claimant's total state benefits up to 13 weeks in states with an activated program.

Urban Development Action Grants HUD offers Urban Development Action Grants (UDAGs) to communities and urban counties to help revitalize distressed areas by stimulating economic development which, in turn, will create new permanent jobs and new sources of tax revenues. Factors central to funding allocation include: housing built before 1940, population with income below poverty, change in population, change in per capita income, change in manufacturing and retail jobs and the local unemployment rate.

Vocational Education Funded through grants to states, this program helps states to expand, improve and develop quality vocational education programs, to assure equal opportunity for traditionally underserved populations and to promote greater public/private sector cooperation. Funds are distributed on the basis of the number of individuals in each state age 15–19, 20–24 and 25–65. State and local funds exceed federal funds by about 11 to 1.

WIC The Special Supplemental Food Program for Women, Infants and Children enables pregnant and nursing low-income women, infants, and young children (up to five years of age) to receive prescription food supplements and nutrition counseling. Federal funds take the form of grants to state health departments or comparable agencies.

WIN The Work Incentive Program provides skill assessment, job training and employment placement to help AFDC recipients become self-supporting. States are allowed to supplement or supplant the basic WIN program with three work requirement programs: Community Work Experience (CWEP), the Work Supplementation Program (WSP) and the Work Incentive Demonstration Project.

Appendix A: Table 1

Federal Obligations (in millions) for Selected Programs (FY 1985 Estimates)

Program	Federal Obligations (Millions)
Aid to Families with Dependent Children	$ 8,338.8
Child Nutrition Programs	3,650.4
Community Development Block Grants	4,448.2
Compensatory Education	3,418.4
Economic Development Administration	217.1
Education of the Handicapped	1,379.8
Food Stamps (includes state administrative matching grant)	11,682.1
General Revenue Sharing	4,566.7
Head Start	1,075.1
Infrastructure Programs (total)	21,970.4
(Highways and mass transit	18,010.7)
(Pollution control and wastewater treatment	2,330.7)
Job Corps (Title IV, Part B, JTPA)	604.5
Job Training Partnership Act (Titles I, II, & V)	2,610.7
Maternal and Child Health Services Block Grant	406.3
Medicaid	22,984.6
Public Housing	17,161.6*
Section 8 Low-Income Housing	8,191.0
Other federal housing assistance to low-income families (demonstration vouchers, rural housing, housing programs for the elderly)	5,411.0
Supplemental Security Income	8,556.0
Title XX Social Services Programs	2,725.0
Unemployment Compensation	16,252.1**
Urban Development Action Grants	656.0
Vocational Education	736.2
WIC (Special Supplemental Food Program for Women, Infants and Children)	1,423.8
WIN (Work Incentive Program)	256.8

*This figure reflects the September 1984 IRS ruling that disallowed certain tax-exempt financing of housing projects. In order to meet ongoing obligations, HUD paid an estimated $14 billion in direct loans in FY 1985.

**These are largely funds from dedicated state taxes deposited with the federal government.

Sources: Executive Office of the President, Office of Management and Budget and U.S. General Services Administration, *Catalog of Federal Domestic Assistance*, 1985; Executive Office of the President, Office of Management and Budget, *Budget of the United States: Appendix*, 1985.

Appendix A: Table 2

Comparison of AFDC and Food Stamp Benefits, One-Parent Family[1] of Three Persons, January 1985 and Combined Benefits as a Percent of 1984 Poverty Threshold[2]

State	Maximum AFDC Grant [3]	Food Stamp Benefit [4]	Combined Benefits	Combined Benefits As a % of 1984 Poverty Threshold
Alabama	$ 118	$ 208	$ 326	47
Alaska	719	192	911	106
Arizona	233	206	439	64
Arkansas	164	208	372	54
California	555	110	665	96
Colorado	346	172	518	75
Connecticut	546	112	658	95
Delaware	287	190	477	69
District of Columbia	327	178	505	73
Florida	240	204	444	64
Georgia	208	208	416	60
Hawaii	468	276	744	94
Idaho	304	185	489	71
Illinois	302	186	488	71
Indiana	256	199	455	66
Iowa	360	168	528	77
Kansas	373	164	537	78
Kentucky	197	208	405	59
Louisiana	190	208	398	58
Maine	370	165	535	78
Maryland	[5] 313	195	508	74
Massachusetts	396	157	553	80
Michigan (Washtenaw Co.)[6]	[5] 447	164	611	89
Michigan (Wayne Co.)[6]	[5] 417	173	590	86
Minnesota	524	119	643	93
Mississippi	96	208	304	44
Missouri	263	197	460	67
Montana	332	177	509	74
Nebraska	350	171	521	76
Nevada	233	206	439	64
New Hampshire	378	163	541	78
New Jersey	385	161	546	79
New Mexico	258	199	457	66
New York (Suffolk Co.)[6]	[5] 579	112	691	100
New York (New York City)[6]	[5] 474	143	617	89

State	Maximum AFDC Grant [3]	Food Stamp Benefit [4]	Combined Benefits	Combined Benefits As a % of 1984 Poverty Threshold
North Carolina	$ 223	$ 208	$ 431	62
North Dakota	371	165	536	78
Ohio	290	189	479	69
Oklahoma	282	192	474	69
Oregon	[5] 386	196	582	84
Pennsylvania	364	167	531	77
Rhode Island	[5] 479	171	650	94
South Carolina	187	208	395	57
South Dakota	329	178	507	73
Tennessee	138	208	346	50
Texas	167	208	375	54
Utah	363	167	530	77
Vermont	558	109	667	97
Virginia	327	178	505	73
Washington	[5] 476	143	619	90
West Virginia	206	208	414	60
Wisconsin	533	116	649	94
Wyoming	265	197	462	67
Guam	265	306	571	83
Puerto Rico	90	NA*	NA*	NA*
Virgin Islands	171	267	438	63
Median AFDC State[7]	327	178	505	73

1. In most states these benefits also apply to a two-parent family of three (where the second parent is incapacitated or, as permitted in almost one-half the states, unemployed). However, some states increase benefits for such families.
2. Except for Alaska and Hawaii, figures here are based on the Census Bureau's 1984 poverty threshold for a family of three persons, $8,280, converted to a monthly rate of $690.
3. In states with area differentials, the figure shown is for the areas with highest benefit.
4. Food stamp benefits are based on maximum AFDC benefits shown and assume deductions of $229 monthly in the 48 contiguous states and D.C.
5. In these states part of the AFDC cash payment has been designated as energy aid and is disregarded by the state in calculating food stamp benefits.
6. Unlike the other state AFDC maximum grant data, presenting a state maximum AFDC grant for New York and Michigan obscures the extraordinary variation these two states' counties exhibit. The Congressional Research Service, the compilers of this table, document this variation by presenting data from two counties in each of these states.
7. Among 50 states and D.C.

*NA: Not applicable

Source: U.S. Congress, House, Committee on Ways and Means, *Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means*, 99th Cong., 1st sess., February 22, 1985, pp. 345-346.

Appendix B

The tables in this section contain information about differences in fiscal capacity among states and other measures that are important in considering fiscal capacity grants for states.

TABLE 1 presents (in the first column) a traditional measure of fiscal capacity, *Per Capita Income*, or total income divided by population. This measure has been criticized for neglecting the portion of the tax base not in personal income, such as the fiscal capacity generated by non-renewable resources in energy-rich states. An alternative measure, *Tax Capacity* (shown in the second column), was developed by the Advisory Commission on Intergovernmental Relations (ACIR). Tax capacity is the absolute amount of revenue that each state would raise if it applied a nationally uniform set of tax rates to a common set of tax bases. This measure is based on each state's level of economic resources that potentially may be taxable, regardless of whether or not, or the degree to which, a particular state actually taxes these resources. According to this measure, Alaska would produce revenues of $3,471 per person, 312% of the national average, vs. Mississippi's $786, 71% of the national average.

The *Tax Effort Index*, also developed by ACIR and shown in column three, measures how much each state chooses to utilize its potential tax base relative to other states, with the national average set at 100. Thus, New York's 169.9 tax effort rating reflects a state and local tax effort that is 69.9% above the norm. Finally, the fourth column, developed by *State Policy Reports*, reworks the Inner-city Cost of Living Index published by the American Chamber of Commerce Research Association. It is based on a survey of a 50-plus item market basket which was used to estimate statewide average living costs. Data are not available for all states. *State Policy Reports* emphasizes the preliminary nature of these data.

TABLE 2, also developed by *State Policy Reports*, analyzes states' fiscal positions by comparing their tax effort to the effort needed to achieve national average spending. The first column, *Effort Needed*, reflects the percentage of its tax capacity a state (and its local governments) would have to exert to finance a national average of spending. The figures in this column are based on the national average taxes of states and localities in 1982 (as calculated on a per capita basis by ACIR), adjusted for different needs. This column shows that Mississippi would have to tax 91% above the average to achieve average spending, while Alaska could tax at one-third of the national average. The second column, *Effort Exerted*, is ACIR's estimate of the tax effort a state actually makes. The difference between these two columns suggests how much higher or lower than the national average a state's state and local tax effort needs to be to achieve average spending. Thus, Mississippi, a state with low fiscal capacity, but also high needs, would have to increase its effort by 98% to fund spending at the national average.

Appendix B: Table 1

Measures of Fiscal Capacity and Estimated Cost of Living Differentials, by State

	Per Capita Personal Income 1984 (Net Avg. = $12,707)			State & Local Tax Capacity Per Capita 1982			1982 Tax Effort	Est. Cost of Living Differentials Early 1985
State	$ Amt.	% Nat'l Avg.	Rank	$ Amt.	% Nat'l Avg.	Rank	Index	% Diff. from Nat'l Average
Alabama	9,981	79	46	819	74	49	87	−6
Alaska	17,155	135	1	3,471	312	1	180	NI*
Arizona	11,629	92	32	1,063	96	26	92	+3
Arkansas	9,724	77	48	872	78	46	81	−6
California	14,344	113	5	1,288	116	9	99	+10
Colorado	13,742	108	8	1,347	121	6	81	+5
Connecticut	16,369	129	2	1,304	117	7	99	+7
Delaware	13,545	107	10	1,277	115	11	84	NI*
Florida	12,553	99	21	1,153	104	17	72	+2
Georgia	11,441	90	34	930	84	42	96	−3
Hawaii	12,761	100	16	1,302	117	8	105	NI*
Idaho	10,174	80	44	956	86	40	85	−3
Illinois	13,728	108	9	1,094	99	23	107	+3
Indiana	11,799	93	30	987	89	34	88	−3
Iowa	12,090	95	29	1,066	96	26	105	−4
Kansas	13,319	105	11	1,181	106	15	88	−1
Kentucky	10,374	82	41	909	82	43	89	−2
Louisiana	10,850	85	36	1,256	113	13	82	+1
Maine	10,678	84	39	935	84	41	107	NI*
Maryland	14,111	111	7	1,106	100	21	106	+3
Massachusetts	14,574	115	4	1,117	101	19	119	+8
Michigan	12,518	99	22	1,031	93	29	120	+3
Minnesota	13,219	104	12	1,100	99	22	111	+1
Mississippi	8,857	70	50	786	71	50	92	NI*
Missouri	12,129	95	28	1,005	90	33	82	−5
Montana	10,216	80	43	1,219	110	14	97	−2
Nebraska	12,280	97	27	1,079	97	25	94	−5
Nevada	13,216	104	13	1,674	151	3	63	+6
New Hampshire	13,148	103	14	1,110	100	20	75	NI*
New Jersey	15,282	120	3	1,172	105	16	113	NI*
New Mexico	10,330	81	42	1,273	115	12	83	+3
New York	14,121	111	6	1,019	92	31	170	+16
North Carolina	10,758	85	37	906	82	44	94	−3
North Dakota	12,461	98	23	1,278	115	10	83	NI*
Ohio	12,314	97	25	1,017	92	32	95	Average

* NI: No information available

State	Per Capita Personal Income 1984 (Net Avg. = $12,707)			State & Local Tax Capacity Per Capita 1982			1982 Tax Effort	Est. Cost of Living Differentials Early 1985
	$ Amt.	% Nat'l Avg.	Rank	$ Amt.	% Nat'l Avg.	Rank	Index	% Diff. from Nat'l Average
Oklahoma	11,745	92	31	1,399	126	5	78	Average
Oregon	11,582	91	33	1,094	98	24	95	+2
Pennsylvania	12,343	97	24	986	89	35	106	+3
Rhode Island	12,730	100	17	904	81	45	133	NI*
South Carolina	10,075	79	45	822	74	48	96	−3
South Dakota	11,049	87	35	971	87	37	91	−6
Tennessee	10,400	82	40	859	77	47	86	−3
Texas	12,636	99	19	1,448	130	4	66	+4
Utah	9,719	76	49	957	86	39	97	−2
Vermont	10,692	84	38	983	88	36	103	NI*
Virginia	13,067	103	15	1,039	94	28	90	+1
Washington	12,728	100	18	1,128	102	18	93	+5
West Virginia	9,846	77	47	1,021	92	30	86	−4
Wisconsin	12,309	97	26	964	87	38	128	−1
Wyoming	12,586	99	20	2,234	201	2	105	NI*

* NI: No information available

Sources: "Personal Income and the Convergence Theory," *State Policy Reports* 3 (June 1985): pp. 4, 11; "Fiscal Capacity, Tax Effort, and 'Need.' " *State Policy Reports* 3 (July 1985): pp. 11, 20; Advisory Commission on Intergovernmental Relations, *1982 Tax Capacity of the Fifty States* (Washington, D.C.: Advisory Commission on Intergovernmental Relations, May 1985), p. 16.

Appendix B: Table 2

State and Local Tax Effort Compared to Effort Needed to Achieve National Average Spending, 1982*

Rank	State	Effort Needed	Effort Exerted	Difference
1	Mississippi	191	92	98
2	Alabama	158	87	71
3	South Carolina	151	96	55
4	Arkansas	148	81	67
5	Tennessee	144	86	58
6	Kentucky	143	89	55
7	Georgia	134	96	38
8	North Carolina	130	94	36
9	South Dakota	126	91	35
10	Utah	124	97	27
11	Idaho	123	85	39
12	Maine	121	107	14
13	West Virginia	117	86	31
14	Rhode Island	113	133	− 20
15	Vermont	111	103	9
16	New York	110	170	− 60
17	Michigan	109	120	− 11
18	Indiana	109	88	21
19	Missouri	109	82	28
20	Ohio	106	94	12
21	Wisconsin	106	128	− 22
22	Louisiana	106	82	24
23	Pennsylvania	105	106	− 1
24	Arizona	105	92	13
25	Virginia	104	90	14
26	New Mexico	101	83	19
27	Illinois	100	107	− 7
28	Nebraska	99	94	5
29	Iowa	98	105	− 8
30	Oregon	97	95	2
31	Minnesota	94	111	− 17
32	Maryland	94	106	− 12
33	Montana	92	97	− 5
34	Washington	92	93	− 1
35	Massachusetts	92	119	− 28
36	New Hampshire	91	75	16
37	North Dakota	89	83	6
38	Florida	89	72	17
39	Kansas	88	88	0
40	New Jersey	87	113	− 26

*Difference may not equal apparent subtraction due to rounding.

Rank	State	Effort Needed	Effort Exerted	Difference
41	Delaware	86	84	2
42	Texas	82	66	17
43	California	82	99	− 17
44	Hawaii	82	105	− 24
45	Oklahoma	80	78	1
46	Colorado	78	81	− 3
47	Connecticut	76	99	− 23
48	Nevada	58	63	− 5
49	Wyoming	46	105	− 58
50	Alaska	32	180	−148

Source: "Fiscal Capacity, Tax Effort, and 'Need,' " *State Policy Reports* 3 (July 1985): p. 20.

Appendix C

Federal Domestic Grant Assistance Programs
FY 1985 Estimated Obligations

(In Thousands of Dollars)[1]

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
Department of Agriculture			
1	10.003	Morrill-Nelson Funds for Food and Agricultural Higher Education	$ 2,800
2	10.156	Federal-State Marketing Improvement Program	990
3	10.200	Grants for Agricultural Research, Special Research Grants	27,674
4	10.202	Cooperative Forestry Research	12,661
5	10.203	Payments to Agricultural Experiment Stations Under Hatch Act	152,039
6	10.205	Payments to 1890 Land-Grant Colleges and Tuskegee Institute	22,770
7	10.206	Grants for Agricultural Research-Competitive Research Grants	44,620
8	10.207	Animal Health and Disease Research	5,530
9	10.209	1890 Research Facilities	9,600
10	10.405	Farm Labor Housing Loans and Grants	12,000
11	10.418	Water and Waste Disposal Systems for Rural Communities	115,000
12	10.420	Rural Self-Help Housing Technical Assistance	13,115
13	10.475	Cooperative Agreements with States for Intrastate Meat and Poultry Inspection	36,196
14	10.500	Cooperative Extension Service	330,939
15	10.553	School Breakfast Program	397,700
16	10.555	National School Lunch Program	2,674,268
17	10.556	Special Milk Program for Children	17,321
18	10.557	Special Supplemental Food Program for Women, Infants, and Children (WIC)	1,423,757
19	10.558	Child Care Food Program	429,300
20	10.559	Summer Food Service Program for Children	115,100
21	10.560	State Administrative Expenses for Child Nutrition	46,880
22	10.561	State Administrative Matching Grants for Food Stamp Program	840,000
23	10.564	Nutrition Education and Training Program	5,000
24	10.565	Commodity Supplemental Food Program	35,039
25	10.567	Needy Family Program	16,060

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[1] Federal assistance to states and localities represented 21.2% of state-local expenditures in 1984, down from a peak of 26.8% in 1978, with almost 90% of the funds concentrated in the 25 largest programs. Since 1981 more than 60 programs have been consolidated or abolished, and some aspects of grant regulation have been simplified. This list of 351 formula and project grants does not include programs that do not provide aid for traditional state or local government activities. In 1985 there were more than 200 such programs with obligations exceeding $6 billion.

[2] *Catalog of Federal Domestic Assistance* identification number.

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
26	10.568	Temporary Emergency Food Assistance (Administrative Costs)	$ 50,000
27	10.652	Forestry Research	8,655
28	10.664	Cooperative Forestry Assistance	19,002
29	10.665	Schools and Roads-Grants to States	224,937
30	10.666	Schools and Roads-Grants to Counties	10,047
31	10.668	Additional Lands-Grants to Minnesota	716
32	10.669	Accelerated Cooperative Assistance for Forest Programs on Certain Lands Adjacent to the Boundary Waters Canoe Area	2,940
33	10.901	Resource Conservation and Development	27,561
34	10.904	Watershed Protection and Flood Prevention	130,670
Department of Commerce			
35	11.300	Economic Development-Grants for Public Works and Development Facilities	149,000
36	11.302	Economic Development-Support for Planning Organizations	19,000
37	11.303	Economic Development-Technical Assistance	8,000
38	11.304	Economic Development-Public Works Impact Projects	NI*
39	11.305	Economic Development-State and Local Economic Development Planning	8,000
40	11.306	Economic Development-District Operational Assistance	100
41	11.307	Special Economic Development and Adjustment Assistance Program-Sudden and Severe Economic Dislocation or Long-Term Economic Deterioration	33,000
42	11.407	Commercial Fisheries Research and Development	4,500
43	11.419	Coastal Zone Management Program Administration Grants	7,143
44	11.420	Coastal Zone Management Estuarine Sanctuaries	4,518
45	11.421	Energy Impact-Formula Grants	148
46	11.422	Coastal Energy Impact Grants	215
47	11.428	Intergovernmental Climate-Programs	200
48	11.429	Marine Sanctuary Program	1,319
49	11.550	Public Telecommunications Facilities	24,244
50	11.800	Minority Business Development-Management and Technical Assistance	35,540
Department of Defense			
51	12.400	Military Construction, Army National Guard	26,161
52	12.607	Military Base Reuse Studies and Community Planning Assistance	210
53	12.608	Impact Assistance for Areas Affected by the East Coast Trident Program	6,500

* NI: No information available at time of publication

Sequential Count	CFDA ID[1]	Program Title	FY 1985 Estimated Obligations (in thousands)
Department of Health and Human Services			
54	13.110	Maternal and Child Health Federal Consolidated Programs	$ 71,700
55	13.111	Adolescent Family Life Research Grants	1,600
56	13.116	Project Grants and Cooperative Agreements for Tuberculosis Control Programs	5,000
57	13.118	Acquired Immunodeficiency Syndrome (AIDS) Activity	4,850
58	13.125	Mental Health Planning and Demonstration Projects	13,000
59	13.217	Family Planning-Services	135,793
60	13.224	Community Health Centers	374,500
61	13.226	Health Services Research and Development Grants	6,658
62	13.244	Mental Health Clinical or Service Related Training Grants	22,000
63	13.246	Migrant Health Centers Grants	44,300
64	13.260	Family Planning-Personnel Training	3,208
65	13.262	Occupational Safety and Health-Research Grants	6,501
66	13.263	Occupational Safety and Health-Training Grants	8,760
67	13.268	Childhood Immunization Grants	42,400
68	13.293	State Health Planning and Development Agencies	19,100
69	13.294	Health Planning-Health Systems Agencies	37,515
70	13.298	Nurse Practitioner Training Programs and Nurse Practitioner Traineeships	12,000
71	13.600	Administration for Children, Youth and Families-Head Start	1,075,059
72	13.608	Administration for Children, Youth and Families-Child Welfare Research and Demonstration	12,000
73	13.612	Native American Programs-Financial Assistance Grants	27,300
74	13.623	Administration for Children, Youth and Families-Runaway Youth	23,250
75	13.630	Administration on Developmental Disabilities-Basic Support and Advocacy Grants	64,000
76	13.631	Administration on Developmental Disabilities-Special Projects	2,700
77	13.632	Administration on Developmental Disabilities-University Affiliate	9,000
78	13.633	Special Programs for the Aging-Title III, Parts A and B-Grants for Supportive Services and Senior Centers	265,000
79	13.635	Special Programs for the Aging-Title III, Part C-Nutrition Services	403,850
80	13.645	Child Welfare Services-State Grants	200,000
81	13.646	Work Incentive Program (WIN)	256,760
82	13.647	Social Services Research and Demonstration	4,000
83	13.648	Child Welfare Services Training Grants	3,823
84	13.652	Administration for Children, Youth and Families-Adoption Opportunities	2,000
85	13.655	Special Programs for the Aging-Title VI-Grants to Indian Tribes	7,500

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
86	13.658	Foster Care-Title IV-E	$ 517,223
87	13.659	Adoption Assistance	35,351
88	13.661	Native American Programs-Research, Demonstration and Evaluation	700
89	13.662	Native American Programs-Training and Technical Assistance	1,000
90	13.665	Community Services Block Grant	368,135
91	13.667	Social Services Block Grant (Title XX)	2,725,000
92	13.668	Special Programs for the Aging-Title IV-Training, Research and Discretionary Projects and Programs	24,980
93	13.669	Administration for Children, Youth and Families-Child Abuse and Neglect State Grants	12,000
94	13.670	Administration for Children, Youth and Families-Child Abuse and Neglect Discretionary Activities	14,000
95	13.679	Child Support Enforcement	572,000
96	13.714	Medical Assistance Program (Medicaid)	22,984,602
97	13.775	State Medicaid Fraud Control Units	38,688
98	13.777	State Health Care Providers Survey Certification	86,684
99	13.808	Assistance Payments-Maintenance Assistance (Federal Share-AFDC)	8,338,784
100	13.809	Child Support Enforcement Research	500
101	13.811	Child Support Enforcement Interstate Grants	7,000
102	13.812	Assistance Payments-Research	2,575
103	13.815	Refugee Assistance-Voluntary Agency Programs	4,000
104	13.818	Low-Income Home Energy Assistance (LIHEAP)	2,097,704
105	13.824	Area Health Education Centers	18,000
106	13.886	Grants for Physician Assistant Training Program	4,800
107	13.888	Home Health Services and Training Grants and Loans	3,000
108	13.965	Coal Miners Respiratory Impairment Treatment Clinics and Services	3,300
109	13.977	Preventive Health Services-Sexually Transmitted Diseases Control Grants	45,510
110	13.978	Preventive Health Services-Sexually Transmitted Diseases Research, Demonstrations, and Public Information and Education Grants	9,294
111	13.982	Mental Health Disaster Assistance and Emergency Mental Health	850
112	13.987	Health Programs for Refugees	5,850
113	13.988	Cooperative Agreements for State-Based Diabetes Control Programs	5,000
114	13.991	Preventive Health and Health Services Block Grant	89,000
115	13.992	Alcohol and Drug Abuse and Mental Health Services Block Grant	490,000
116	13.993	Primary Care Block Grant	500

Sequential Count	CFDA ID[3]	Program Title	FY 1985 Estimated Obligations (in thousands)
117	13.994	Maternal and Child Health Services Block Grant	$ 406,300
118	13.995	Adolescent Family Life-Demonstration Projects	11,138
Department of Housing and Urban Development			
119	14.169	Housing Counseling Assistance Program	3,500
120	14.170	Congregate Housing Services Program	4,681
121	14.174	Housing Development Grants	315,000
122	14.218	Community Development Block Grants/Entitlement Grants	2,430,278
123	14.219	Community Development Block Grants/Small Cities Program	1,023,264
124	14.221	Urban Development Action Grants (UDAG)	656,028
125	14.223	Indian Community Development Block Grant Program	28,814
126	14.225	Community Development Block Grants/Secretary's Discretionary Fund/Insular Areas	7,000
127	14.227	Community Development Block Grants/Secretary's Discretionary Fund/Technical Assistance Program	17,500
128	14.228	Community Development Block Grants/State's Program	941,353
129	14.230	Rental Housing Rehabilitation	154,316
130	14.401	Fair Housing Assistance Program-State and Local	4,700
131	14.403	Community Housing Resource Board Program	2,194
132	14.852	Public and Indian Housing-Comprehensive Improvement Assistance Program	NI*
133	15.108	Indian Employment Assistance	25,787
134	15.114	Indian Education-Higher Education Grant Program	27
135	15.141	Indian Housing Assistance	23,736
136	15.142	Self Determination Grants-Indian Tribal Governments	16,483
137	15.143	Training and Technical Assistance-Indian Tribal Governments	1,113
138	15.144	Indian Child Welfare Act-Title II Grants	8,820
139	15.219	Wildlife Habitat Management Technical Assistance	NI*
140	15.250	Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining	38,134
141	15.252	Abandoned Mine Land Reclamation (AMLR) Program	293,340
142	15.503	Small Reclamation Projects	NI*
143	15.600	Anadromous Fish Conservation	3,320
144	15.605	Fish Restoration	35,060
145	15.611	Wildlife Restoration	79,100
146	15.612	Endangered Species Conservation	3,800
147	15.875	Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands	159,513
148	15.904	Historic Preservation Grants-In-Aid	25
149	15.916	Outdoor Recreation-Acquisition, Development and Planning	102,403
150	15.919	Urban Park and Recreation Recovery Program	3,042

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* NI: No information available at time of publication

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
151	15.920	Land Acquisition and Development of Comprehensive Management Plan-State of New Jersey-Pinelands National Reserve	$ 6,001
Department of Justice			
152	16.540	Juvenile Justice and Delinquency Prevention-Allocation to States	42,935
153	16.541	Juvenile Justice and Delinquency Prevention-Special Emphasis and Technical Assistance	16,115
154	16.550	Criminal Justice Statistics Development	2,370
155	16.560	Justice Research and Development Project Grants	19,632
156	16.572	Mariel-Cubans	5,000
157	16.573	Criminal Justice Block Grants	518
158	16.574	Criminal Justice Discretionary Grants	13,880
159	16.575	Crime Victim Assistance	42,500
160	16.576	Crime Victim Compensation	2,400
161	16.601	Corrections-Training and Staff Development	5,606
162	16.602	Corrections-Research and Evaluation and Policy Formulation	1,000
163	16.603	Corrections-Technical Assistance	8,195
Department of Labor			
164	17.207	Employment Service	740,398
165	17.225	Unemployment Compensation[3]	16,252,100
166	17.235	Senior Community Service Employment Program	326,000
167	17.246	Employment and Training Assistance-Dislocated Workers	138,250
168	17.247	Migrant and Seasonal Farmworkers	60,357
169	17.248	Employment and Training Research and Development Projects	3,850
170	17.249	Employment Services and Job Training-Pilot and Demonstration Programs	15,098
171	17.250	Job Training Partnership Act (JTPA)	2,610,700
172	17.251	Native American Employment and Training Programs	62,243
173	17.500	Occupational Safety and Health	57,399
174	17.600	Mine Health and Safety Grants	5,170
175	17.801	Disabled Veterans Outreach Program	59,200
176	17.802	Veterans Employment Program	9,667
177	17.804	Local Veterans Employment Representative Program	50,100
Department of Transportation			
178	20.005	Boating Safety Financial Assistance	13,750
179	20.106	Airport Improvement Program	925,000
180	20.205	Highway Planning and Construction	14,240,000

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[3] These are largely funds from dedicated state taxes deposited with the federal government.

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
181	20.214	Highway Beautification-Control of Outdoor Advertising, and Control of Junkyards	$ 7,283
182	20.216	Highway Educational Grants	200
183	20.218	Motor Carrier Safety Assistance Program	14,000
184	20.303	Grants-in-Aid for Railroad Safety-State Participation	3,323
185	20.308	Local Rail Service Assistance	14,000
186	20.500	Urban Mass Transportation Capital Improvement Grants	1,149,387
187	20.502	Urban Mass Transportation Grants for University Research and Training	2,000
188	20.503	Urban Mass Transportation Managerial Training Grants	1,556
189	20.505	Urban Mass Transportation Technical Studies Grants	50,000
190	20.507	Urban Mass Transportation Capital and Operating Assistance Formula Grants	2,500,000
191	20.509	Public Transportation for Nonurbanized Areas	100,000
192	20.511	Human Resource Program	7,500
193	20.512	Urban Mass Transportation Technical Assistance	35,400
194	20.600	State and Community Highway Safety	161,396
195	20.700	Gas Pipeline Safety	4,500
Department of the Treasury			
196	21.300	State and Local Government Fiscal Assistance-Revenue Sharing	4,566,700
Appalachian Regional Commission			
197	23.002	Appalachian Supplements to Federal Grant-in-Aid (Community Development)	23,700
198	23.003	Appalachian Development Highway System	90,430
199	23.004	Appalachian Health Programs	3,200
200	23.005	Appalachian Housing Project Planning Loan, Technical Assistance Grant and Site Development and Off-Site Improvement Grant: State Appalachian Housing Programs	3,000
201	23.008	Appalachian Local Access Roads	12,435
202	23.009	Appalachian Local Development District Assistance	4,294
203	23.010	Appalachian Mine Area Restoration	NA[*]
204	23.011	Appalachian State Research, Technical Assistance, and Demonstration Projects	1,000
205	23.012	Appalachian Vocational and Other Education Facilities and Operations	4,000
206	23.013	Appalachian Child Development	500
207	23.017	Appalachian Special Transportation Related Planning, Research and Demonstration Program	95
Equal Employment Opportunity Commission			
208	30.009	Employment Discrimination Project Contracts-Indian Tribes	811

[*] NA: Not applicable

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
Federal Mediation and Conciliation Service			
209	34.002	Labor-Management Cooperation	$ 1,000
National Foundation on the Arts and Humanities			
210	45.001	Promotion of the Arts-Design Arts	4,400
211	45.002	Promotion of the Arts-Dance	8,900
212	45.003	Promotion of the Arts-Artists-in-Education	5,600
213	45.004	Promotion of the Arts-Literature	5,100
214	45.005	Promotion of the Arts-Music	15,300
215	45.006	Promotion of the Arts-Media Arts: Film/Radio/Television	10,200
216	45.007	Promotion of the Arts-State Programs	24,300
217	45.008	Promotion of the Arts-Theater	10,600
218	45.009	Promotion of the Arts-Visual Arts	6,300
219	45.010	Promotion of the Arts-Expansion Arts	6,900
220	45.011	Promotion of the Arts-Inter-Arts	4,200
221	45.012	Promotion of the Arts-Museums	12,000
222	45.013	Promotion of the Arts-Challenge Grants	20,580
223	45.014	Promotion of the Arts-Opera and Musical Theater	6,000
224	45.015	Promotion of the Arts-Folk Arts	3,100
225	45.022	Promotion of the Arts-Advancement Grants	2,298
226	45.023	Promotion of the Arts-Test Program of Support for Local Arts Agencies	2,200
227	45.151	Promotion of the Humanities-Summer Seminars for Secondary School Teachers	3,018
228	45.301	Institute of Museum Services	20,653
National Science Foundation			
229	47.066	Teacher Enhancement and Informal Science Education	25,000
230	47.067	Materials Development and Research	23,700
231	47.069	Research Initiation and Improvement	6,990
Small Business Administration			
232	59.032	Office of Women's Business Ownership	0
Veterans Administration			
233	64.005	Grants to States for Construction of State Home Facilities	41,912
234	64.014	Veterans State Domiciliary Care	11,908
235	64.015	Veterans State Nursing Home Care	51,031
236	64.016	Veterans State Hospital Care	3,553
237	64.203	State Cemetary Grants	4,000
Environmental Protection Agency			
238	66.001	Air Pollution Control Program Grants	90,708
239	66.003	Air Pollution Control Manpower Training Grants	0

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
240	66.418	Construction Grants for Wastewater Treatment Works	$1,900,000
241	66.419	Water Pollution Control-State and Interstate Program Grants	60,200
242	66.432	State Public Water System Supervision Program Grants	26,750
243	66.433	State Underground Water Source Protection-Program Grants	7,500
244	66.438	Construction Management Assistance Grants	71,243
245	66.454	Water Quality Management Planning	24,400
246	66.455	Marine Combined Sewer Overflow Special Fund	30,040
247	66.600	Environmental Protection Consolidated Grants-Program Support	42,638
248	66.700	Pesticides Enforcement Program Grants	12,093
249	66.701	Toxic Substances Compliance Monitoring Cooperative Agreements	1,500
250	66.702	Asbestos Hazard Abatement School Assistance Program	22,500
251	66.801	Hazardous Waste Management Financial Assistance to States	47,000
252	66.802	Hazardous Substance Response Trust Fund	111,000
Department of Energy			
253	81.041	State Energy Conservation	23,522
254	81.042	Weatherization Assistance for Low-Income Persons	191,136
255	81.050	Energy Extension Service	9,801
256	81.052	Energy Conservation for Institutional Buildings	47,043
257	81.081	Energy Task Force for the Urban Consortium	1,960
258	81.086	Conservation Research and Development	1,500
259	81.090	State Heating Oil Grants	270
Federal Emergency Management Agency			
260	83.410	Community-Based Anti-Arson Program	300
261	83.501	State Assistance Program	3,240
262	83.503	Emergency Management Assistance	51,300
263	83.504	Other State and Local Direction, Control and Warning	1,910
264	83.505	State Disaster Preparedness Grants	1,290
265	83.506	Earthquake and Hurricane Preparedness Grants	3,857
266	83.508	Radiological Instrumentation	NI*
267	83.511	Radiological Protection Program	NI*
268	83.512	State and Local Emergency Operating Centers	9,200
269	83.513	State and Local Warning and Communication Systems	575
270	83.514	Population Protection Planning	8,700
271	83.515	Emergency Broadcast System Guidance and Assistance	400
272	83.516	Disaster Assistance	275,000
273	83.518	Emergency Public Information Competitive Challenge Grants	150

* NI: No information available at time of publication

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
Department of Education			
274	84.002	Adult Education- State-Administered Program	$ 100,000
275	84.003	Bilingual Education	139,265
276	84.004	Civil Rights Technical Assistance and Training	24,000
277	84.008	Alcohol and Drug Abuse Education	3,000
278	84.009	Education of Handicapped Children in State Operated or Supported Schools	150,170
279	84.010	Educationally Deprived Children-Local Educational Agencies	3,200,000
280	84.011	Migrant Education-Basic State Formula Grant Program	262,458
281	84.012	Educationally Deprived Children-State Administration	35,607
282	84.013	Neglected and Delinquent Children	32,616
283	84.014	Follow Through	10,000
284	84.023	Handicapped-Innovation and Development	16,000
285	84.024	Handicapped Early Childhood Education	22,500
286	84.025	Deaf-Blind Centers	15,000
287	84.026	Handicapped Media Services and Captioned Films	16,500
288	84.027	Handicapped Preschool and School Programs	1,271,837
289	84.028	Handicapped Regional Resource Centers	60,000
290	84.029	Special Education Personnel Development	61,000
291	84.030	Handicapped Teacher Recruitment and Information	1,025
292	84.031	Higher Education-Institutional Aid	148,343
293	84.034	Public Library Services	73,500
294	84.035	Interlibrary Cooperation	17,640
295	84.036	Library Career Training	640
296	84.039	Library Research and Demonstration	360
297	84.040	School Assistance in Federally Affected Areas-Construction	20,000
298	84.041	School Assistance in Federally Affected Areas-Maintenance and Operation	675,000
299	84.042	Special Services for Disadvantaged Students	70,323
300	84.044	Talent Search	20,272
301	84.047	Upward Bound	938,323
302	84.048	Vocational Education-Basic Grants to States	691,508
303	84.049	Vocational Education-Consumer and Homemaker Education	31,633
304	84.051	National Vocational Education Research	6,078
305	84.053	Vocational Education-State Councils	7,000
306	84.055	Higher Education-Cooperative Education	14,400
307	84.060	Indian Education-Formula Grants to Local Educational Agencies and Tribal Schools	45,913
308	84.061	Indian Education-Special Programs and Projects	10,290
309	84.062	Indian Education-Adult Indian Education	2,940
310	84.066	Educational Opportunity Centers	9,317
311	84.069	Grants to States for State Student Incentives	76,030

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
312	84.072	Indian Education-Grants to Indian Controlled Schools	$ 4,410
313	84.073	National Diffusion Network	10,000
314	84.077	Bilingual Vocational Training	2,514
315	84.078	Postsecondary Education Programs for Handicapped Persons	5,300
316	84.083	Women's Educational Equity	6,000
317	84.086	Innovative Programs for Severely Handicapped Children	4,300
318	84.091	Strengthening Research Library Resources	6,000
319	84.099	Bilingual Vocational Instructor Training	553
320	84.100	Bilingual Vocational Materials, Methods, and Techniques	369
321	84.101	Vocational Education-Indian and Hawaiian Natives	6,734
322	84.103	Training for Special Programs Staff and Leadership Personnel	1,088
323	84.122	Secretary's Discretionary	2,000
324	84.123	Law-Related Education	2,000
325	84.124	Territorial Teacher Training Assistance Program	2,000
326	84.126	Rehabilitation Services-Basic Support	1,100,000
327	84.128	Rehabilitation Services-Service Projects	32,800
328	84.129	Rehabilitation Training	21,100
329	84.132	Centers for Independent Living	22,000
330	84.133	National Institute of Handicapped Research	39,258
331	84.141	Migrant Education-High School Equivalency Program	6,300
332	84.144	Migrant Education-Interstate and Intrastate Coordination Program	2,066
333	84.146	Transition Program for Refugee Children	16,600
334	84.149	Migrant Education-College Assistance Migrant Program	1,200
335	84.151	Improving School Programs-State Block Grants	500,000
336	84.153	Business and International Education	2,200
337	84.154	Library Services and Construction Act-Construction	24,500
338	84.155	Removal of Architectural Barriers to the Handicapped	40,000
339	84.158	Secondary Education and Transitional Services for Handicapped Youth	6,330
340	84.159	Handicapped-Special Studies	3,170
341	84.160	Training Interpreters for Deaf Individuals	900
342	84.161	Client Assistance for Handicapped Individuals	6,300
343	84.162	Emergency Immigrant Education Assistance	30,000
344	84.163	Library Services for Indian Tribes and Hawaiian Natives	2,360
345	84.164	State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages and Computer Learning	90,100
346	84.165	Magnet Schools Assistance	75,000
347	84.168	Secretary's Discretionary Program for Mathematics, Science, Computer Learning and Critical Foreign Languages	9,900
348	84.169	Comprehensive Services for Independent Living	5,000

Sequential Count	CFDA ID[2]	Program Title	FY 1985 Estimated Obligations (in thousands)
349	84.171	Excellence in Education	$ 4,000
350	84.172	Construction, Reconstruction, and Renovation of Academic Facilities	28,000
National Archives and Records Administration			
351	89.003	National Historical Publications and Records Grants	4,451
		Total	**$114,380,515**

Source: Unpublished table on the budget concept of grants, General Services Administration, Office of Information Resource Management, 1985 *Catalog of Federal Domestic Assistance*.

IN BRIEF

The
Federal Role
in the
Federal System:
The
Dynamics
of Growth

Advisory Commission on Intergovernmental Relations, Washington, D.C. 20575 • December 1980

FOREWORD

Nearly 200 years after the Founders signed the Constitution establishing a federal Republic, the Congress requested the Advisory Commission on Intergovernmental Relations to "study and evaluate the American federal fiscal system in terms of the allocation and coordination of public resources among federal, state, and local governments" (P.L. 94-88, the 1976 renewal legislation for General Revenue Sharing).

This *In Brief* is a summary of the Commission's response to the Congressional mandate to study and evaluate the federal role in the federal system. It was written by Stephanie Becker, ACIR information associate, based on the work of members of the ACIR Structure and Functions Section, headed by Assistant Director David B. Walker.

Commission work on this topic is comprised of 11 volumes listed below. The series, *The Federal Role in the Federal System: The Dynamics of Growth*, will be issued throughout 1980 and 1981.

□*A Crisis of Confidence and Competence* (A-77), July 1980;
□*Federal Involvement in Libraries* (A-84), June 1980;
□*Public Assistance: The Growth of a Federal Function* (A-79), July 1980;
□*The Federal Role in Local Fire Protection* (A-85), November 1980;
□*Reducing Unemployment: Intergovernmental Dimensions of a National Problem* (A-80);
□*Intergovernmentalizing the Classroom: Federal Involvement in Elementary and Secondary Education* (A-81);
□*The Evolution of a Problematic Partnership; The Feds and Higher Ed* (A-82);
□*Protecting the Environment: Politics, Pollution, and Federal Policy* (A-83), *Winter 1981;*
□*The Condition of Contemporary Federalism: Conflicting*

Theories and Collapsing Constraints (A-78);
- *An Agenda for American Federalism: Restoring Confidence and Competence* (A-86); and
- *Hearings on the Federal Role* (A-87), December 1980.

The ACIR comprehensive analysis of the federal role in the federal system is but one component of the Commission's response to the broad 1976 Congressional mandate. Other parts are:

Citizen Participation in the American Federal System (A-73),
Contercyclical Aid and Economic Stabilization (A-69), and
State-Local Finances in Recession and Inflation (A-70).

Also to be released in 1981 are studies on comparative fiscal federalism, the roles of state and local governments, and the future of federalism in the United States.

Abraham D. Beame
Chairman

Wayne F. Anderson
Executive Director

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INTRODUCTION

American federalism—the tripartite system involving shared and separate powers among the federal, state, and local levels of government—is in trouble, the Advisory Commission on Intergovernmental Relations (ACIR) has concluded following a three-year study of the federal role in the federal system. The federal government's influence, the Commission warns, has become more pervasive, more intrusive, more unmanageable, more ineffective, more costly, and, above all, more unaccountable.

This view is also shared by many experts. Professor Daniel Elazar, director of the Center for the Study of Federalism at Temple University, was questioned about the condition of American federalism in testimony before the Commission in March of 1980.* Dr. Elazar likened our intergovernmental system to the plight of Daniel Boone: "Daniel Boone once was asked whether he was ever lost in the woods. He looked around, and he said, 'well, I have never been lost. That would really not be my way, but once I was bewildered for three days.' " Dr. Elazar, a leading scholar in the field for over a quarter century, feels that when it comes to federalism, the American people and their representatives are very much lost in the woods, or, at least, seriously bewildered.

Unlike public opinion polls of 20 years ago which reflected a high degree of satisfaction with government in general, today's surveys reflect a pervasive citizen bewilderment, if not cynicism. The Commission asks—if, in a democratic federal republic, the citizens, not to mention its key administrators and politicians, are unable to comprehend policy formulation and implementation—where stands the system?

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*For more information on this topic, see *Hearings on the Federal Role* (A-87).

THE SCOPE OF FEDERAL AID

Prior to 1960 – Few and Far Between

1937	Housing
1946	Airport Aid
1946	Hospital and Medical Facilities
1948	Water Pollution Control
1949	Urban Renewal
1950	Federal Impact School Aid
1954	State and Local Planning Assistance
1954	Small Watershed Protection
1955	Air Pollution Control
1956	Library Aid
1958	College Student Aid
1787	Education Land Grants
1862	Agricultural Education (land grant colleges)
1914	Agricultural Extension • 50-50 matching • state plan approved • first modern conditional money grant
1916	Federal Aid Highways
1917	Vocational Education
1921	Public Health Assistance
1935	Social Security
1935	Public Assistance

Source: ACIR staff computations.

HAS INCREASED DRAMATICALLY

1978 – Grants for Everything

Budget Subfunction	**Number of Programs**
Department of Defense – Military	5
General Science and Basic Research	1
Energy	6
Water Resources	7
Conservation and Land Management	13
Recreational Resources	10
Pollution Control and Abatement	35
Other Natural Resources	4
Agricultural Research and Services	9
Mortgage Credit and Thrift Insurance	2
Other Advancement and Regulation of Commerce	2
Ground Transportation	36
Water Transportation	2
Mass Transportation	8
Air Transportation	3
Other Transportation	1
Community Development	5
Area and Regional Development	36
Disaster Relief and Insurance	9
Elementary, Secondary, and Vocational Education	70
Higher Education	10
Research and General Education Aids	21
Training and Employment	23
Other Labor Services	1
Social Services	47
Health	78
Public Assistance and Other Income Supplements	27
Hospital and Medical Care for Veterans	5
Criminal Justice Assistance	13
General Property and Records Management	1
Other General Government	2
Total	**492**

The intergovernmental system today, in the Commission's view, is a bewildered and bewildering maze of complex, overlapping, and, often, conflicting relationships among the three levels of government. In short, the system is overloaded. A comparison of the federal-state-local network of 1960 and today provides critical insight. Two decades ago, intergovernmental fiscal transfer programs amounted to a little over $7 billion. *Today*, the nearly 500 assistance programs cost $88 billion. *Then*, federal regulations imposed on state and local governments were few in number. *Now*, an estimated 1,260 mandates are in effect. *Then*, intergovernmental assistance went almost exclusively to the 50 states. *Now*, about 65,000 units of local government receive some form of direct federal aid.

4 The federal government's influence is felt throughout the nation by virtually all individuals, businesses, other private organizations, and state and local governments, bringing both relief and intrusion, creating both pleasure and pain. Income assistance, federally created jobs, a cleaner environment, safer products, better working conditions, needed community improvements and the like are clearly positive accomplishments. Yet they and other efforts are frequently marred by complaints of excessive paperwork, unnecessary delays, unexpected costs and losses in productivity, and too much federal decision-making at the expense of private freedoms and policymaking discretion by the state and local governments. The Commission recognizes the positive effects of some expansions in the federal role, yet questions the effectiveness of the bewildering network that now characterizes intergovernmental relations.

In order to better understand how the system grew, and to determine how well it is working, the Commission produced in-depth case studies in seven functional areas: public assistance, unemployment, elementary and secondary education, higher education, environment, libraries, and fire protection. Each details the role of various political actors and forces in the development of federal programs.

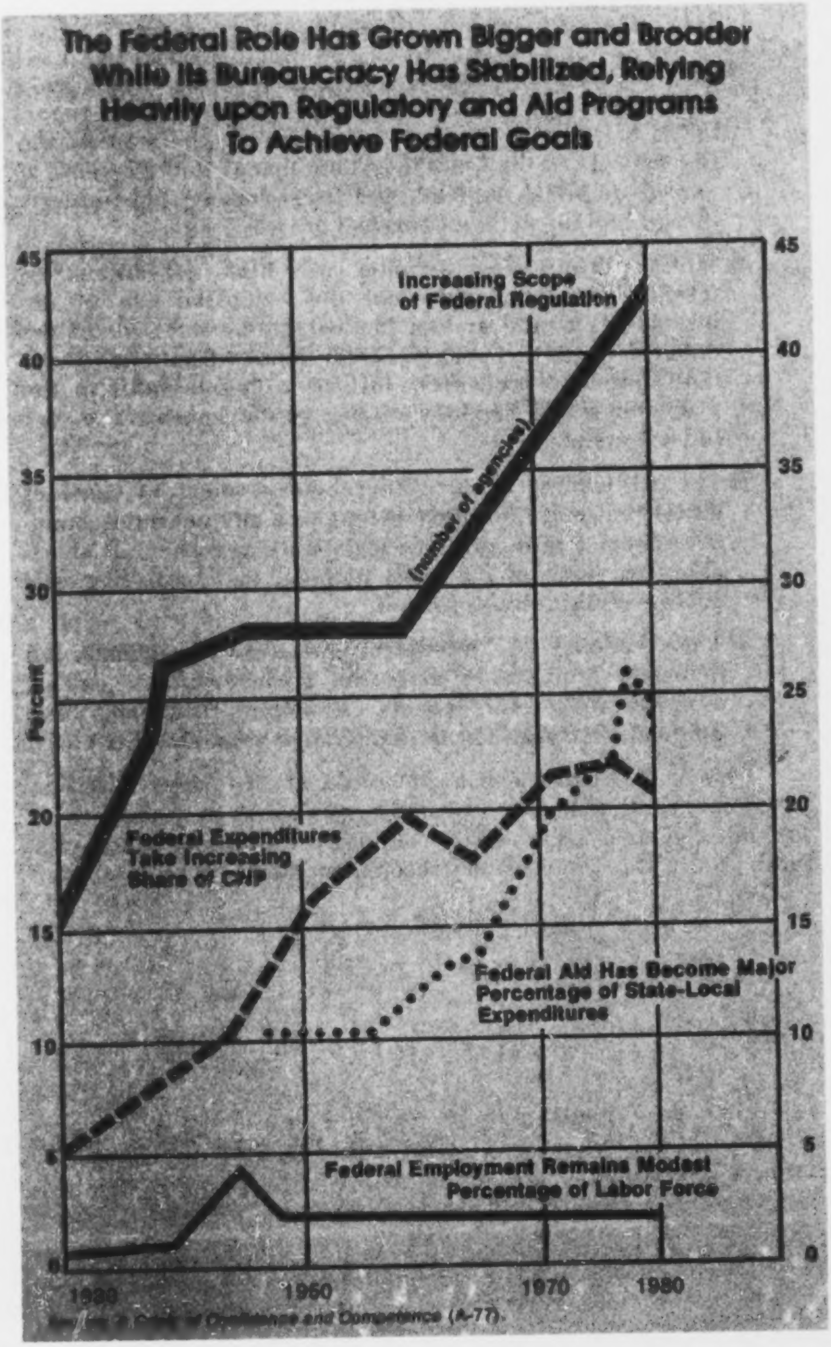
The Commission's conclusions fall short of calling for a drastic overhaul of the federal system; its major findings, however, are less than sanguine about the present state of intergovernmental relations. At its March 1980, meeting, members reached a consensus. Their overall conclusions are stated below. Specific recommendations for change to alleviate an overloaded system were adopted in June of 1980 and are presented in the *Appendix*.

- **The current network of intergovernmental relations has become dangerously overloaded, to the point that Ameri-**

can federalism's most trumpeted traditional traits – flexibility and workability – are critically endangered.

- **This threatening condition has come about largely as a consequence of a rapid expansion in the overall scope, range of specific concerns, and coercive character of the federal role in the federal system, thanks to the erosion of various political, judicial, and fiscal factors that formerly disciplined the national political process.**
- **While certain governmental activities necessitate an intergovernmental approach, the extensive use of the intergovernmental system to deal with nearly all of the nation's domestic concerns, from our most national to our most parochial concerns, reflects a feeble faith in the problem-solving capacity of the various partners in our** 5 **federal system.**
- **The willingness of the federal government to consider issues that more properly belong to a city or county council, school board, or state legislature results in it shortchanging some of our most national and basic domestic governmental responsibilities.**
- **This tendency to "intergovernmentalize" practically all domestic functions hinders the achievement of equity, administrative effectiveness, economic efficiency, and political, electoral, and administrative accountability.**

This *In Brief* provides an overview of *The Federal Role in the Federal System: The Dynamics of Growth* in four parts: a quantitative analysis, an historical analysis, a normative analysis, and, finally, the Commission's recommendations for change.



The Federal Role Has Grown Bigger and Broader While Its Bureaucracy Has Stabilized, Relying Heavily upon Regulatory and Aid Programs To Achieve Federal Goals

[illegible] a Crisis of Confidence and Competence (A-77).

6

A QUANTITATIVE ANALYSIS: THE GROWTH OF THE FEDERAL ROLE[1]

Especially in the past 20 years, the federal role in the federal system has become *bigger, broader,* and *deeper*—bigger in the size of its intergovernmental outlays, and in the number of grant programs; broader in its program and policy concerns; and deeper in its regulatory thrusts, preemption proclivities, and the wide range and numbers of subnational governments interacting directly with Washington.

The federal government now pursues a broad and varied set of activities that leaves few, if any, concerns of its citizens unattended. The expanded scope of the federal government's functions appears to follow the general pattern evidenced by European and other western-style democracies. Political scientist Richard Rose noted in a detailed study of 32 such nations that these countries tend to work successively in stages toward three goals: first to secure their existence as a nation; secondly, to mobilize their physical resources for economic development; and, finally, to provide social benefits for their citizens.[2] American federalism now clearly embodies all three stages of growth with much of the last stage occurring in recent decades.

While the seeds for federal government growth were sown in the 1930s, the most extraordinary expansion of the intergovernmental system took place from 1960 to 1980. Stark contrasts between the federal system as it existed in 1960 and how it operates today are quantified in the ACIR research.

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[1] For more information on this topic, see *The Federal Role in the Federal System: A Crisis of Confidence and Competence (A-77)*, July 1980.

[2] Richard Rose, "On the Priorities of Government: A Developmental Analysis of Public Policies," *European Journal of Political Research*, Vol. 4, No. 3, Sept. 1976, pp. 247-89.

- Intergovernmental fiscal transfers amounted to only a little over $7 billion in 1960, or less than 2% of the GNP and less than 15% of total state-local expenditures. In 1980, intergovernmental assistance programs cost $88 billion, account for 3.4% of the GNP and over 23% of total state-local outlays.
- The growth of federal aid has been accomplished by dramatic shifts in its composition. The 132-odd programs in place two decades ago were dominated to the extent of almost 80% by transportation and income security programs. Today, the nearly 500 intergovernmental grant-in-aid programs are much more diversified, affecting nearly every field of state and local operations.
- 8 The distribution pattern of federal aid has also undergone drastic changes: in 1960, all but 8% of federal grants went to state governments; in 1980, about 25% flowed directly from the federal government to local governments, bypassing the states.
- Federal aid now goes to about four-fifths of the 80,000 units of subnational governments whereas, 20 years ago, the 50 states received 97% of the funds.
- Federal regulations imposed on state and local governments, still few in number as of 1960, are now believed to involve 1,259 mandates, 223 of which are direct orders while the remaining 1,036 are conditions of aid. Fifty-nine of these are crosscutting, applying to most federal grants.

Although the federal role in domestic affairs expanded dramatically from 1960 to 1980, surprisingly it was not accompanied by a significant expansion in the federal government's operational activities. The size of the civilian bureaucracy is nearly the same as it was two decades ago. Then, the federal bureaucracy numbered approximately 2.5 million employees; today, it is only 300,000 more. In recent years, federal civilian jobs (when measured as employment per 1,000 population) have actually decreased; at the same time, state and local employment per 1,000 population has been increasing rapidly. It has been estimated that five million people constitute the pool of indirect federal "employees"—these are state and local government and private sector employees whose salaries are paid indirectly by the federal government through grants and contracts even though they remain under nonfederal jurisdiction and control. These facts highlight the degree to which the federal government relies on others to do its domestic governmental business.

The ACIR research documents that the federal role has not just grown bigger, it has changed. This change is one of emphasis at the federal level—from regulator and promotor of the economy and modest provider of intergovernmental aid to big banker, energetic but only modestly effective equalizer, pervasive regulator, and mobilizer of shared functions—and helps to explain why federal employment has leveled off. Many of the domestic activities that the federal government is now conducting, or helping to accomplish, are not being done through federal bureaucracy alone. The conditional grant-in-aid system remains the chief mechanism of achieving intergovernmental fiscal transfers and of interacting programmatically with state and local governments. Massive intergovernmental assistance programs are basic means by which national policymakers have been able to keep the federal bureaucracy relatively small while still ostensibly 9 accomplishing federal purposes.

Just as statistics on the size of the federal bureaucracy have tended to mask the true size of the federally financed workforce, the federal budget fails to portray the extent of real or potential outlays. Federal tax expenditures—deductions and credits which reduce tax revenues—have been analyzed in connection with the federal budget since 1974 but are not reflected in the federal budget itself. Such expenditures consist of foregone federal tax collections resulting from special tax "breaks"; some 87 different types of tax credits are now offered, resulting in an estimated $150 billion in "lost revenue" in FY 1979 alone.

In a similar manner, federal credit assistance programs, consisting of direct loans and guaranteed loans, are not accounted for in the federal budget though they are analyzed to some extent. Nevertheless, there is a potential budget commitment—federal obligations made under these loans and loan guarantee programs amounted to about $70 billion in FY 1979. These off-budget items—credit assistance programs and tax expenditures—amounted to about $221 billion in FY 1979—a figure equal to nearly half again as much as total FY 1979 budget outlays.

The federal influence, however, is reflected in more than size of its budget, off-budget obligations, or its bureaucracy. It is heavily manifested, also, through its mandates and regulations. As was indicated earlier, over 1,200 federal mandates now apply to state and local governments. About 223 of these are direct orders while the remainder are conditions of federal aid. Although the regulations are not direct orders per se, the lure of federal funds to financially hard-pressed jurisdictions is so strong that, in most cases, the effect is almost the same.

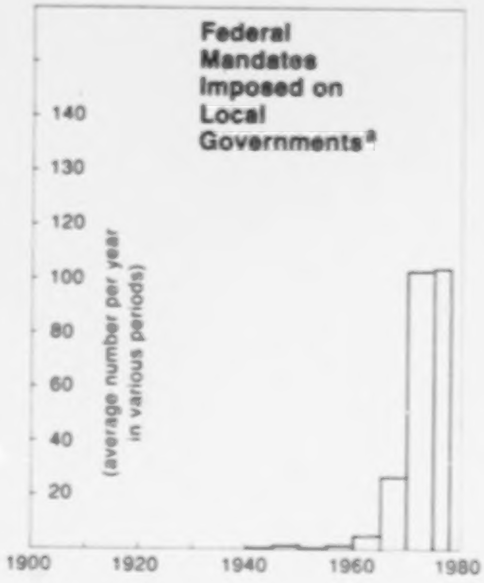
The expansion of federal regulatory activities is usually measured somewhat indirectly for want of a better way. *The*

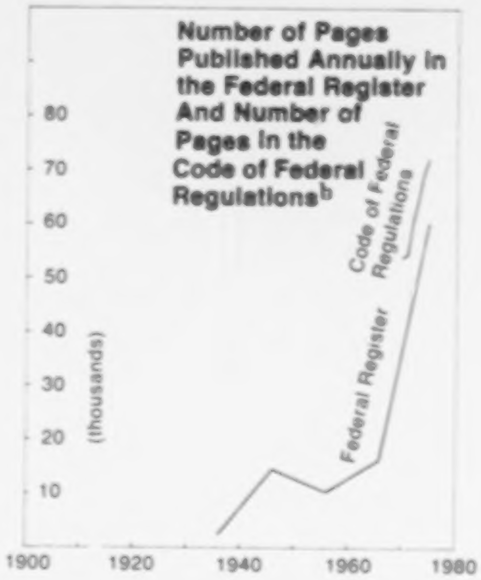
FEDERAL FINANCIAL INFLUENCE, FISCAL YEAR 1979

(In billions of dollars)

		Types of Transactions	Amounts		
Federal Budget (69%)	$496	Purchases	$166	$218	Direct Federal Operations (30%)
		Interest and Other	52		
		Transfers	200	499	Federal Financial Benefits, Aid, and Incentives (70%)
		Grants	78		
Off Budget (31%)	221	Credit Assistance	71		
		Tax Expenditures	150		
100%	$717	Total Federal Financial	$717	$717	100%

Source: ACIR staff computations based on the *Budget of the United States*.





[a] The information for this chart was derived from Lovell, Katherine, *et. al.*, *Federal and State Mandating to Local Government: Impact and Issues*, 1979 draft, p. 71.

[b] The sources of this chart were Morris P. Fiorina, *Congress: Keystone of the Washington Establishment*, 1977, p. 93, and the Public Interest, Number 47, New York, NY, National Affairs Inc., Spring 1977, p. 50.

Code of Federal Regulations, for example, increased in size from 23,000 pages in 1950 to nearly 84,000 pages in 1978. The number of pages published annually in the *Federal Register*, another indicator of federal regulatory activities, soared from about 20,000 in 1960 to over 60,000 by the latter 1970s.

The cost of federal regulatory thrusts is high to businesses, states, and local governments and, ultimately, of course, the taxpayers and general population. The total federal paperwork burden on individuals, businesses, and state and local governments was estimated by the Commission on Federal Paperwork at more than $100 billion in 1977 and paperwork is just one aspect of the federally imposed costs.

12

HISTORICAL ANALYSIS: HOW DID GOVERNMENT GROW?[3]

If, indeed, as the Commission concluded, the federal government has become, "more pervasive, more unmanageable, more ineffective, more costly, and above all, more unaccountable," then it is necessary to ask—how did it get that way? Although the seven functional areas studied by ACIR comprise only a portion (albeit a substantial portion) of the federal government's business, they nonetheless provide insight into the overall dynamics of the policy process and thus help to determine which of a variety of political, economic, and social forces brought about the present intergovernmental system.

Two broad types of policy producing and shaping variables—policy actors and environmental influences—were examined. Policy actors included the Congress, the President, the bureaucracy, the courts, the press, public opinion, and interest groups. Socioeconomic trends and dislocations such as war and economic aberrations constituted the environmental influences or forces. If, as some claim, government has gone awry; if the "enumerated powers" of 1978 have become the immeasurable activities of 1980, all these actors and forces are—to a greater or lesser extent—responsible.

The Role of the Public Entrepreneur

One striking fact emerged from each of the cases which the Commission studied: Policy entrepreneurship—whether Congressional, Presidential, bureaucratic, or special interest—was the predominant factor in program genesis and adoption. Moreover, in every case, only Congress played a consistently crucial role; and, with only one exception, that role was manifested not

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[3] For more information on this topic, see *An Agenda for American Federalism: Restoring Confidence and Competence* (A-86).

MAJOR ACTORS AND FORCES IN POLICY DEVELOPMENT AND GROWTH

	Functional Fields—ACIR Case Studies						
	Public Assistance	Elementary & Secondary Education	Higher Education	Environment	Unemployment	Libraries	Fire Protection
Internal Policy Actors							
Congress	x	x	x	x	x	x	x
President		x			x		
Interest Groups		x		x		x	x[2]
Bureaucracy				x	x		x
Courts		x		x			
External Policy Actors							
Public Opinion	x[1]			x			
Elections							
Political Parties					x		
Press	x[1]			x			
Environmental Influences							
Demographic & Social Trends	x	x	x				
Dislocations (War, Depression)	x	x	x		x		

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[1] Food stamps only.

[2] Interest groups were crucial in the creation of the U.S. Fire Administration only.

Source: Advisory Commission on Intergovernmental Relations.

in the form of Congress as an institution but as individuals. In other words, the individual Congressional entrepreneur, either working alone or in tandem with others, was the most clearly visible actor. The near universal existence of such activists in the ACIR case studies should lay to rest any notion that Congress acts as a great rubber stamp for Presidential, bureaucratic, or interest group initiatives. In fact, in most instances, the opposite would be far closer to the truth.

This is not to suggest that interest groups, Presidents, and administrators never act in a policy initiation capacity. Nor is it always clear just who is the actual policy initiator. The so-called "issue network" of Congressional committee members, bureaucratic specialists, and relevant interest groups at times obscures legislative authorship.

15 Yet, more often than not, the ACIR case studies revealed that interest groups resulted as much from government programs as the reverse. That is, the importance of interest groups very often lies not in their greatly exaggerated abilities to create or successfully advocate new programs but rather in the ability of programs to generate new interest groups. And, once established, a group will inevitably work to sustain the program which gave it life. If policy is primarily "created" by Congress, to interest groups—the "offspring" of policy—accrue its "care and feeding."

In the case studies by the ACIR, the bureaucratic role in the realm of program initiation was found to be sporadic and largely secondary. Bureaucratic policy entrepreneurs were relatively infrequent actors and generally entered the initiation process in a supportive role at the behest of some other actor, usually the President.

So too, perhaps surprisingly, Presidents have tended to play a secondary role in the realm of policy initiation. While they have been primary entrepreneurs in many of the largest government endeavors—for instance, the *Social Security Act* and the War on Poverty programs—overall, the case studies revealed a relative lack of protracted Presidential importance in the ongoing process associated with each of the functional areas.

The Judicial "Greenlight"

Since the 20s and most pronounced since 1937, the Supreme Court has given its okay to the accomplishment of national purposes through conditional grant programs—in effect offering to Congress a judicial "greenlight" for expanding the federal functional role.

Thus, through acquiescing to Congress, the Supreme Court has been a powerful instrument of government growth. Moreover, since the mid-1950s, the Court's activist stance in a number of areas has stimulated, in turn, programmatic activity among other political actors. Court intervention into the environmental protection field, to cite one prominent example, has had at least two expansionary consequences.[4] By providing an arena for environmental battles, the courts increased the visibility and importance of relevant interest groups. Secondly, the courts, by strictly interpreting the *National Environmental Policy Act of 1969*, gave meaning to an often vague piece of legislation and served to further expand the federal environmental role. The "nonpolitical" branch of government, then, has been a potent force in developing the political shape of the nation.

16 Political Factors— A Convergence for Growth

One of the central questions to emerge from the case studies was not whether policymakers had been responsive—if anything, hyperresponsiveness has been the rule—but rather "to what is government responding?" In other words, has the "popular will," through the mechanisms which organize it and through which it expresses itself, contributed to the growth of government?

The answer is "yes." In both 1932 and 1964, the President and Congress perceived a particular type of mandate and acted accordingly. Whether or not the perception was valid, policymakers thought they were responding appropriately. Moreover, despite its designation as the party of "big spenders" and government growth, the electorate has chosen Democratic Congresses for all but four of the past 50 years and has opted for five Democrats out of the last seven elected Presidents. Even in a post-Proposition 13 environment, where the public appears to be demanding less government, a certain ambivalence prevails. "Less government" does not necessarily mean that people want fewer or smaller programs; rather it seems to mean a desire for less burdensome taxes, on the one hand, and, on another, an ideological commitment to the Jeffersonian notion of limited government, the "negative liberal state."

Environmental dislocations, economic depressions, wars, the baby boom, international events, and scientific achievements have all created a kind of policy ambience in which government

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[4] For more information on this topic, see *Protecting the Environment: Politics, Pollution, and Federal Policy* (A-83).

A Case in Point

The Federal Role in Higher Education*

Although the federal government has been involved in higher education since the founding of the Republic, that involvement took a quantum leap during the past two decades. From $1.7 billion in 1960, total federal funding for a variety of higher education purposes reached $12 billion annually by the late 1970s.

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Beginning with the *Higher Education Act of 1965*, the federal role in higher education has been propelled by a new legitimacy, equal educational opportunity. The *Higher Education Amendments of 1972* reaffirmed the national goal of equal educational opportunity and reemphasized the federal focus on aid to students rather than aid to institutions.

Since 1972, the thrust of federal activities has been primarily nonfiscal in nature. A number of regulatory conditions ranging from health and safety to affirmative action to education record-keeping now accompany federal dollars.

Federal aid in higher education exemplifies the pleasure-pain syndrome which has come to characterize the grant-in-aid system as a whole. On the one hand, the goals of the regulations—the end of discrimination, pay equalization, access for the handicapped, and the like—are worthy. On the other hand, federal regulations are said to challenge academic freedom, the merit system, and are costly to administer and may distort academic priorities.

One possible fallout from the ongoing federal "intrusion" debate may be a sort of regulatory backlash. Indeed, the legislative proposal gaining the most attention in recent years has been the college tuition tax credit, which derives at least some of its appeal from its nonintrusive nature.

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*For more information on this topic, see *The Evolution of a Problematic Partnership: The Feds and Higher Ed* (A-82).

growth could take place. Such dynamics may be dramatic or subtle, have an immediate impact or may be discerned only years after they have occurred. Yet whatever their absolute magnitude, they have combined to condition an activist response from policy actors and thus have been critical in shaping the current contours of the federal government's role.

18

A NORMATIVE ANALYSIS: HOW WELL IS THE SYSTEM WORKING?[5]

The condition of American federalism cannot be described solely by reference to the flow of funds, programmatic ties, and political activities—although an understanding of these is certainly mandatory. What is also necessary is an assessment of performance, of how well the system is working.

Recognizing that no ultimate standard exists by which we can assess the assignment of functions among the federal, state, and local levels of government, the ACIR has chosen a cluster of standards reflecting contrasting values for assessment purposes. Five criteria—national purpose, fiscal equity, economic efficiency, administrative effectiveness, and political accountability—have been utilized by this Commission in past studies and now may be employed to judge how well our federalist system is working today.[6] Although these criteria are difficult to apply and even conflict with each other at times, each does offer a useful and appropriate standard for a general assessment of the intergovernmental system.

A decade or two ago, most analyses offered generally positive appraisals on nearly every count. Grant programs were at least believed to have the potential to advance principal national goals while leaving other matters to state and local discretion. They also were thought to help equalize incomes and service levels among jurisdictions and individuals, thus benefitting the disadvantaged; to provide an efficient and effective means for delivering services on a cooperative basis among the levels of government; and to assure the responsiveness of the political system to the needs and desires of its citizens. Those assumptions remained popular even though they were not always supported by empirical research.

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[5] For more information on this topic, see *An Agenda for American Federalism: Restoring Confidence and Competence* (A-86).

[6] These criteria were used either singly or in tandem in *Financing Schools and Property Tax Relief—A State Responsibility* (A-40) and *Governmental Functions and Processes: Local and Areawide* (A-45).

More contemporary commentaries, as noted in the ACIR study, provide a far less sanguine view of intergovernmental administration and politics. Evidence from the Commission's seven case studies provides the framework for applying the five criteria and form the basis of the Commission's conclusions and recommendations.

While the normative analysis of the ACIR study concentrates on the federal aid system's problems and desirable reforms, the accomplishments of the system are not denied or minimized. Federal programs have addressed numerous human and societal problems, and, some specific activities are well conceived and
20 skillfully administered. The ACIR has studied individual programmatic areas but addresses itself far more to the cumulative effects of recent intergovernmental developments on the overall system.

National Purpose

The selection of the national purpose criteria reflects the philosophy of the ACIR which has consistently held that American government works best when all three levels—national, state, and local—are strong. Accordingly, the national purpose criteria implies that grants-in-aid should be employed to advance major national objectives in the principal fields of federal concern and that other functional fields be left to state and local governments. The concept of national purpose is, however, vague, and has broadened over the years. It has been used to justify a host of federal activities that ACIR research and other studies show to embody no clear or even a cloudy sense of an overriding national priority.

For the first century and a half of American history, the question of national purpose was primarily one of national authority. James Madison asserted in *The Federalist* (Number 45) that powers delegated to the Congress were "few and defined" and "exercised principally on external objectives, such as war, peace, negotiation, and foreign commerce."

Madison's view of a balanced federalism gave way, especially in the past 50 years, to a much more far-reaching interpretation of what constitutes national purpose. Thus, even such a universally accepted federal responsibility as defense has been used to justify the creation of federal programs affecting such diverse local activities as education and fire protection. The acceptance of new national goals, widely embraced over the past two decades, such as the reduction of unemployment, the elimination of poverty, and the protection of the environment, have resulted in an elaborate network of intergovernmental programs touching upon essentially every field of state and local operations.

The change in the federal role, and the redefinition of the national purpose, have occurred, for the most part, in a succession of small steps, rather than in giant leaps. Policymakers often take advantage of the "temper of the times" to promote their programs. For example, education programs intended to further defense and economic opportunity were accepted when programs of general aid to education probably could not have been. Then, once the precedent was set, additional initiatives were adopted more readily.

The federal government's assistance or regulatory activities, however, now reach into the most traditionally local fields such as arson control, fire protection, police pensions, and pot hole repair, to name but a few. The extension of the federal role into each of these areas seemed reasonable at the time. The ACIR study recognizes the legitimacy of many of these efforts and of the national goals that justified them, but questions the rather drastic consequences of the aggregate of those initiatives. When viewed in their totality, hardly any service or function is not now a national one, at least partially. This suggests an erosion of the most valuable feature of any federal system, especially one that is as vast and variegated as ours: that is, the need for a rough but real division of functional labor among the governmental levels.

Fiscal Equity

Fiscal equity has often been cited in support of federal activism. A considerable body of research shows, however, that the federal aid system does not now—and never has—strongly redistributed resources to the most disadvantaged states and individuals. For example, correlation studies indicate that, since 1940, there has never been even a moderately strong negative association between the states' per capita personal income levels and their per capita grant receipts.

Reasons why the often-cited goal of fiscal equity has not been achieved through intergovernmental transfers surface in the case studies. "New Deal" welfare programs emphasized state autonomy over national standards and matched state expenditures, rather than equalizing benefits to the disadvantaged.[7] Hence, public assistance benefit levels and eligibility criteria differ widely from state to state. Many later grants-in-aid, including some which were ostensibly redistributive in intent, have scattered funds widely in an attempt to build supportive political coalitions.

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[7] For more information on this topic, see *Public Assistance: The Growth of a Federal Function* (A-79), July 1980.

A good example of coalition building occurred during the adoption of the *Area Redevelopment Act* (ARA) in 1961.[*] Senator Paul H. Douglas' initial bill, introduced six years earlier, was expanded significantly to include both rural and urban areas of underemployment. Today, ARA's successor agency, the Economic Development Administration (EDA), designates 2,230 areas as eligible for assistance, covering fully 85% of the nation's population. In short, a program initially designed to help a small number of depressed areas currently encompasses most of the nation. 22 EDA's programs have survived and grown largely because they benefit the many, rather than the few.

The redistributive effect of federal aid programs in fiscal terms has been blurred by the preference for in-kind benefits and social services rather than direct cash payments for the poor. Programs such as aid to education and employment training, for example, generate more interest group support and have proved to have more popular appeal than does "welfare."

The ACIR analysis portrays the lack of true commitment to the idea of fiscal equity. A deference to the partial autonomy of states persists; coalition building in the Congress continues to favor "distributive" rather than "redistributive" programs; and, especially in recent years, budgetary restraints serve to dampen enthusiasm for revamping the system to achieve fiscal equity.

Economic Efficiency and Administrative Effectiveness

Two other traditional arguments for the use of intergovernmental grants involve economic efficiency and administrative effectiveness. The federal-state-local partnership once was widely praised as the best means to avoid an excessively large federal bureaucracy, an inflexible system, and the diseconomies of scale that might accompany direct national provision of domestic services. Because of America's large population and territory, as well as its diversity, a truly national government would be gargantuan.

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[*] For more information on this topic, see *Reducing Unemployment: Intergovernmental Dimensions of a National Problem* (A-80).

In short, the traditional view of grants-in-aid rested on a view of federalism that is cooperative and collaborative. The system itself was thought to embody the two related criteria of economy and efficiency by combining the best of two worlds, decentralization and centralization through shared responsibilities.

More recent analyses of intergovernmental relations, including many implementation and evaluation studies, identify serious problems with the practice of cooperative federalism though its rhetoric persists. In spite of repeated attempts to simplify and decentralize intergovernmental programs, tensions and considerable turmoil continue. Public opinion, political and editorial rhetoric, and scholarly findings all seem to agree that grants-in-aid, all too often, are plagued by federal program failures, waste, inefficiency, disorganization, red tape, and mismanagement. 23

A variety of research reports have amply documented problems in efficiently implementing intergovernmental programs. First, the chain of command is long. Administrative links between Washington, regional and field offices of the federal bureaucracy, the states, and localities provide many possible points for delay, disagreement, or misunderstanding. Secondly, the proliferation of grant programs itself has greatly exacerbated implementation problems. Every field of federal involvement is now marked by serious programmatic fragmentation. The jungle of programs tends to dissipate federal leverage, on the one hand, and pose serious obstacles to effective and efficient administration, from the state and local point of view. Finally, the increasing use of the federal regulatory "stick" in exchange for the "carrot" of subsidy has made federal aid a more onerous and intrusive burden for recipients. The evidence of rising tension can be found in the courts. One survey of federal court cases identified almost 500 dealing with grant law, 80% of them initiated since 1975.[*]

A number of the case studies in the ACIR review suggest that many of these problems are political, rather than purely administrative, in origin. Many grant and regulatory programs were poorly designed—or not "designed" at all, but just passed. Administrators inherit this political legacy, however, and are blamed if the performance is inadequate.

The ACIR study concludes that when the dual criteria of economic efficiency and administrative effectiveness are applied to the intergovernmental aid system as it currently operates, an inverse relationship between the quantity of programs and their quality emerges. Consequently, visions of "partnership" and "cooperation" have been replaced by new images of inadequate implementation, growing fragmentation, increasing intrusiveness, and new antagonisms.

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[*] Thomas J. Madden, "The Law of Federal Grants," paper prepared for the ACIR Conference on Grant Law, Washington, DC, December 12, 1979, p. 19.

Political Accountability

The Jeffersonian philosophy that the functions of local governments should be maximized because they are "closest to the people" generally dominated political rhetoric, if not realities, until comparatively recent times. The idea that political accountability was expected to be strongest at the local, then state, and
24 finally national levels remained popular for many years.

A strong opposing tradition, however, found in Madison's theory of the extended republic, has fueled debate on this issue since the formulation of the Constitution. In Madison's view, a danger exists that small societies, because of their greater homogeneity, would be likely to oppress minority interests. Madison asserted in *The Federalist* (Number 10): "Extend the sphere, and you take in a greater variety of parties and interests; you make it

A Case in Point

The Federal Role in Local Fire Protection*

Federal involvement now extends to what was held to be the most local of functions, fire protection. In 1960, the entire federal intergovernmental role consisted of small-scale cooperative agreements between the Forest Service and state agencies. Today, all federal departments (except State and Defense) as well as at least 11 other federal agencies are involved in fire-related activities that affect state and local governments. In addition to General Revenue Sharing, which is sometimes used to support fire service delivery, 52 grant-in-aid programs handled by 24 separate administrative units are available to subnational governments.

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*For more information on this topic, see *The Federal Role in Local Fire Protection* (A-85), November 1980.

A Case in Point

Federal Involvement in Libraries*

The library case study provides a microcosm of the growth of the federal role over the past 20 years. Rooted in the establishment of the Library of Congress in 1800, federal involvement in public libraries has amounted to $2.2 billion since 1956. Categorical aid did not become available for library services until 1956, and, even then, assistance was limited in scope and designed to be temporary in nature. By the mid-1960s, a dramatic change occurred. The *Library Services and Construction Act* of 1964 and other legislation led to what ACIR termed the heyday of federal aid for libraries. Although library services are still viewed as primarily a state and local responsibility, federal library programs have proved to be tenacious and a prediction of their demise is probably unwarranted.

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*For more information on this topic, see *Federal Involvement in Libraries* (A-84), June 1980.

less probable that a majority of the whole will have a common motive to invade the rights of other citizens." Yet Madison's notion of the federal role was not substantially different from Jefferson's.

Our intergovernmental system, as it was conceived and operates through grants-in-aid, seemingly reconciled competing centralist and decentralist approaches to the accountability question. Yet few assessments of political accountability in the American federal system are positive today. Instead, the political responsibility for intergovernmental program operations is divided and confused.

The dramatic changes that have taken place in the scope and operations of American government have served to weaken political accountability. As federal programs have grown in number, so have the tripartite collection of interests associated with each of them. The term "iron triangle" has been used to describe the alliances of program administrators, Congressional subcommittees, and interest groups that coalesce around individual aid programs and often dominate decisionmaking. The result has been continuing weakening of the political influence of "generalist" officials and administrators at each level of government—as well as the political parties which seek unsuccessfully to bind them together and link them to the public-at-large.

The case studies portray federal programs that, once in place, often become self-perpetuating, leaving few opportunities for full-scale policy review and limiting the effective exercise of political leadership. Popular control of, and participation in, national policymaking has been quite limited, and a sense of alienation is prevalent among the population. The intergovernmental aid system, with its multiple points of political access offered by an overlapping of governmental functions, once seemed to assure access to policymaking by citizens but, in fact, has not. Decisionmaking has become fragmented, atomized, and the system itself has grown to the point where many, including this Commission, consider it to be overloaded. The
26 combined effects of atomization and overload tend to obscure political accountability in any meaningful sense.

AN AGENDA FOR THE EIGHTIES: ACIR's RECOMMENDATIONS FOR CHANGE[10]

If in fact, as the Advisory Commission on Intergovernmental Relations believes, the federal government's role in the federal system has become more pervasive, more intrusive, more unmanageable, more ineffective, more costly, and more unaccountable, then where do we go from here?

The Commission rejects a dreary more-of-the-same scenario for the future with more federal aid programs, more formal conditions, more buckpassing, and fewer real dollars. The Commission also rejects drastic Constitutional change. While imperfect, the federal system has accomplished much good, and a complete overhaul, so far at least, is unjustified.

Governor Bruce Babbitt of Arizona, a Commission member since 1978, aptly stated the problem, "Today. . . the federal system is in complete disarray. . . . It is long past time to dust off the *Federalist Papers* and to renew the debate commenced by Hamilton, Madison, and Jefferson. They would ask not only whether a proposal is a good program but also 'Is this a *federal* function?' "

The recommendations adopted in June 1980, rest on the basic precept that preoccupied our Founders—the persistent questioning about what level of government is best suited to perform which functions—but they also look to the future. As the nation nears its Constitutional Bicentennial, the federal system will be in greater need of balance, discipline, and reliability than in the simpler days of just 20 years ago.

The ACIR strategy for change—to restore balance and discipline—is formulated in six parts: decongestion of the grant-in-aid system; reduction of the regulatory burden; strengthened political parties; preserving and renewing state-local discretionary authority; a convocation on federalism; and, clarified and improved methods to amend the Constitution.

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[10] For more information on the ACIR recommendations, see *An Agenda for American Federalism: Restoring Confidence and Competence* (A-95) and the *Appendix* of this *In Brief*.

Decongestion of the Federal Grant System

The Commission has been studying the almost continual addition to the now myriad functional roles of the federal government for almost 20 years. Over the past two decades, the federal aid system has grown seemingly without limits, adding more programs, more dollars, greater state-local reliance on federal financing, and more federal policy guidance on top of state and local policies. This growth has spawned too much red tape, along with a substantial confusion of goals, responsibilities, and accountability. Now, as the Commission finds the grant 28 system suffering from overload, it builds on a body of past recommendations, reaffirming many of them, and going several steps further to call for a major sorting out of functional responsibilities among the three levels of government.

In 1969, the Commission urged that the federal government assume full financial responsibility for welfare programs.[11] The welfare system, as it currently operates in many instances through federal-state programs, is simply inequitable, too often inadequate, and inconsistently administered. Further, the Commission's argument for federal assumption of the welfare burden, both in the past and now, rests on the need to remove a source of fiscal pressure on those states and localities beset by diminishing fiscal resources or disproportionate shares of the poor.

The Commission now advocates a bolder approach. Recommendations adopted in 1980 reaffirm the Commission's support for welfare reform but also propose federal assumption of certain other fundamental social welfare functions—potentially, employment, housing, medical benefits, and basic nutrition could be wholly federal functions. This position recognized the continuing reality of poverty in the midst of plenty. It suggests that, just as the national government has necessarily assumed paramount responsibility for managing the economy in the aggregate, it also should accept responsibility for meeting the basic human needs of those whom the economy has failed. Each of these interrelated areas is one in which the national government has historically assumed a political and fiscal leadership role—and only national financing can assure that an adequate standard of benefits exists throughout the nation.

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[11] For more information on this topic, see *State Aid to Local Government* (A-34), 1969.

With due respect to current and projected fiscal realities and restraints, the Commission advocates that federal assumption of these basic responsibilities be accompanied by a major sorting out of functional assignments in other areas. Therefore, the Commission recommends that the number of federal assistance programs be reduced substantially either through termination, consolidation, or devolution to state or local governments. In the past, the Commission has advocated consolidation of closely related programs—in 1967, it proposed that the number of federal categorical programs, then 379, be reduced by half through consolidation.[12] In 1977, the Commission recommended regular reassessment of grant-in-aid programs through sunset review procedures.[13]

Grant reform, already, has met with some success in certain areas like community development. Overall, however, the Commission finds that these efforts have been insufficient to produce a net streamlining of the federal aid system. While grant reform is still deemed desirable and imperative in many instances, the Commission now moves beyond advocating consolidation to include, as well, terminating or phasing out many of the numerous, small, narrowly defined grant programs. The major candidates for termination or phaseout include: (1) the approximately 420 small federal categorical grant programs which together account for only 10% of all grant funds; (2) programs in functional fields in which federal aid amounts to approximately 10% or less of combined expenditures in that field (including federal, state, and local expenditures); (3) programs, especially small ones, which have high administrative costs relative to the federal financial contribution; and, (4) programs which obtain—or could obtain—most of their funding from state and/or local governments, or fees for services, or which could be shifted to the private sector.

The Commission's recommendation for sorting out functional responsibilities rests on what is perhaps the most basic principle of federalism: a division of labor among levels of government. After all, Mayors are not Presidents; Congressmen are not county commissioners; and judges are not state legislators. Roles have become much more confused over the past 20 years and, while many of the results can be termed positive, the net effect is overload. The Commission's goal is to retain and strengthen the federal role in those areas in which federal aid is warranted but, at the same time, restrict the federal presence in those fields where it is not.

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[12] For more information on this topic, see *Fiscal Balance in the American Federal System* (A-31), 1967.

[13] For more information on this topic, see *Categorical Grants: Their Role and Design* (A-52).

A Less Intrusive Federal Role

Streamlining and simplifying the federal aid system is but a first step to restore balance to American federalism. The federal regulatory burden also must be reduced. Over 1,200 mandates and conditions of aid now are imposed on state and local governments. Fifty-nine of these are "crosscutting"—that is, they apply to most federal grants.

The Commission does not disagree with the goals and intentions behind most federal rules. Indeed, most are largely un-
30 assailable. Few Americans are proud of prevalent discrimination in our society based on race, sex, ethnicity, and age. Hardly anyone finds pollution of the air, water, land to be a desirable state of affairs. Most also believe that those unfortunate enough to live daily with handicaps should, at the very least, be allowed equal access to basic facilities.

Rather, the objections to federal rules and regulations address their seemingly endless numbers and their often confusing, conflicting, duplicative, and above all, costly implementation. The burden of implementation falls to the states and their localities and, ultimately, the taxpayers.

No one knows how much federal rulemaking costs the other two levels of government. Some regulations have caused costs far beyond expectation or standard of reason. The ACIR advocates that Congress and federal departments and agencies should begin by detailing—through fiscal notes and regulatory impact analyses—the costs imposed on states and local governments by every federal law and regulation.

Further, the Commission feels that it is now necessary to empower the President to temporarily (up to 180 days) suspend potentially disruptive or very costly national policy requirements. These are the estimated 59 crosscutting requirements, administered by 19 federal agencies, that deal with discrimination, equal access, environmental quality, relocation, prevailing wages, merit employment, financial ethics, coordination, planning, citizen participation, and privacy. Looking to the future, any additional requirements broadly imposed should be subject to possible Presidential suspension if their impact is perceived to be potentially disruptive and/or disproportionately costly.

Congress should no longer legislate in a "pass now, pay later" atmosphere, and federal departments and agencies should no longer promulgate in a vacuum. Due consideration must be given to the other partners in the federal system—the states and their localities—if the "system" is to continue working.

Strengthening the Party System

Special interest groups may have sprung up like dandelions after a spring rain, but the vast majority of the population is still unrepresented by them. The political parties have historically fulfilled this role. By selecting candidates for public office, preparing platforms, aggregating diverse interests, mounting campaigns, and organizing both the processes of government and of the "loyal opposition," the parties have played an important role in making mass representative democracy possible.

All indications are, however, that the two-party system is now in a drastically weakened state. Neither of the two major 31
political parties provides a strong focus for personal political loyalties. Neither do they serve any longer as a grassroots forum—a "bottom up" organization which used to exert a vital counterforce against centralization. Indeed, because of their state and local foundations, the political parties have served as the brokers of federalism.

To strengthen the party system, and its leadership in Congress, the Commission proposes that each of the two major parties hold mid-term conventions as well as more frequent conferences at the state and local levels. Also, the Commission advocates a reduction in the number, dates, and duration of Presidential primaries and the elimination of open and blanket primaries.

Preserving and Renewing State-Local Discretionary Authority

State and local governments were not altogether passive bystanders as the federal role changed. More often than not, Governors, Mayors, and other elected officials supported, rather than opposed, the creation, continuation, and expansion of federal aid programs.

Especially in the past 15 years, many state and local governments have "come to Washington." Their representative groups work hard to keep federal aid flowing. While federal conditions, which accompanied this aid, helped to diminish state and local discretionary authority, the public interest groups generally have not been very successful in warding off threats to their member's authority and autonomy—with the notable exception thus far being the landmark 1976 decision in *National League of Cities v. Usery*.

The ACIR finds that greater autonomy for states and local governments is a necessary ingredient for a balanced federal system. Public interest groups representing state and local elected officials in Washington can begin by reordering their own lobbying priorities. Such an effort is already underway. A number of these associations have labored on various grant management reform efforts and have attempted to identify those fields in which their members' need for federal assistance is paramount, secondary, or only tertiary. Once these priorities are ordered, the public interest groups should begin to work towards identifying intergovernmental activities that are most appropriate for full federal assumption or full devolution to state or local governments or the private sector. Even if these reform efforts are successful, the Commission recognizes full well that the intergovernmental arena will still be a crowded one. 32

The Commission also finds that state and local governments must maintain a vigilant posture against coercive federal actions. The courts remain the final recourse available to challenge the validity, or even the Constitutionality, of federal regulations and laws. While *NLC v. Usery* remains a signal victory, it is not easy to find the broad support and funds to bring a case before the Supreme Court.

For these reasons, the Commission now urges the creation of a "legal defense fund" for state and local governments (1) to serve as an information clearinghouse; (2) to identify those federal actions which impose the greatest burdens; and, (3) if it becomes necessary, to consider instituting major suits on issues involving fundamental principles.

States are the key link in the federal system. Although more and more federal aid has been designed to bypass states and flow directly to local governments, the states still play a pivotal role vis-a-vis their localities. In the Commission's view, they should assure that all local governments have adequate taxing authority and/or state financial assistance to perform the services for which they are responsible. States should also ensure that their political subdivisions are adequately structured and monitored to assure proper fiscal management and accountability.

Making Federalism a "Front-Burner" Topic

In the nearly 200 years that our nation has lived under the Constitution, the term "federalism" or "federal system" has been bandied about from time to time, but, in recent decades, federalism has been a back burner issue. The approach of our Constitutional Bicentennial, the Commission believes, should be accompanied by a widespread educational effort to discuss and explore what the terms "representative," "federal," and "democratic" mean today. It is time to focus on what in our 200-year Constitutional legacy is outdated, what needs to be revised, and what remains relevant.

The educational campaign the Commission sanctions harkens back to the spirit of Thomas Jefferson who wrote in 1789: ". . . whenever the people are well informed, they can be trusted with their own government; . . . whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights."

The President, the Commission further urges, should issue
a call at the earliest possible date for a convocation on federalism 33
—an assemblage of federal, state, and local officials as well as leading representatives of the public-at-large. Its task, in the words of journalist Neal Pierce, should be to "hammer out a governmental reform agenda for the decade. . . to resuscitate a badly wounded American system."

Resolving Ambiguities: Clarifying The Constitutional Amendment Process

Under Article V of the Constitution, the states can petition Congress to convene a Constitutional convention to consider specific amendments to the United States Constitution. While five major efforts have been made over the past two decades to utilize this route, none has been successful. The current drive for a budget-balancing amendment has come close to receiving the required number of petitioning states (30 states to date have requested Congress to convene a Constitutional convention to consider a balanced budget amendment). Two-thirds or 34 of the states are necessary.

The Commission finds that the so far unused state initiative approach needs a clearer means of implementation. Further, it urges that the state initiative method be accorded the same degree of dignity, feasibility, and legal clarity as the more familiar Congressional initiating option. The Commission has held this position since 1971 and now reaffirms its support for the proposed "Federal Constitutional Convention Amendment Act," pending legislation (S. 3 and H.R. 1664, 96th Congress) to "provide needed guidelines for a Constitutional convention to consider specific amendments to the U.S. Constitution should one be invoked by petition from the states."

CONCLUSION

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Just as Mt. St. Helen's eruption surprised geologists, the growth of the federal role was not anticipated by most expert "government watchers" 20 years ago. Few saw, in 1960, that the federal government—still the relatively small, limited state, quite like that propounded by the Founders—would become a sprawling Leviathan.

In 1960, the welfare "explosion" had not yet begun in earnest. Special manpower measures targeted to the disadvantaged were considered unnecessary. A major federal role in education and health was thought to be a legislative impossibility. And the three Es—energy, environment, and the economy—were still pretty much backburner issues.

We've come a long way in just 20 years. An expanded federal role has brought both pain and pleasure—federal aid, relief, and intrusion.

The Advisory Commission on Intergovernmental Relations believes it is now time to take stock and look to, and plan for, the future. The crystal ball is cloudy. The future is indeed uncertain. Given the track record of past prognosticators, who largely failed to foresee the federal role's significant expansion over the past 20 years, predicting the future should be approached with extreme trepidation and more than a little humility. Still, the 1980s are apt to challenge the capacity of government at all levels.

Perhaps the most hopeful scenario for the future of federalism, and one that the Commission would like to endorse, was expressed by columnist David Broder: "The prediction I would like to make is that the next two decades will be as much a period of institutional rehabilitation and repair as the last two decades were a time of disparagement and destruction of the machinery of our government" (*Washington Post*, September 18, 1980).

Appendix

RECOMMENDATIONS

(adopted June 20, 1980)

Recommendation 1

Decongesting the Federal Grant System

The Commission concludes that the federal government has overused the grant-in-aid mechanism, sometimes giving the state and local governments roles in certain programs that could be handled best by the federal government itself, while at other times establishing a federal role in programs better left to state and local governments. In these cases, the grant mechanism often unnecessarily complicates the administration of the program, confuses political and program accountability, reduces effectiveness, interferes with economic efficiency, and rarely achieves equity goals. Hence . . .

The Commission reiterates and strongly reendorses its earlier recommendation that the nation's excessively intergovernmentalized system be corrected by action of the Congress and the President to (1) reexamine federal, state, and local roles in, and contributions to, the principal functional areas of public policy, including assessments of the desirability of fully nationalizing some functions while reducing, eliminating, or forestalling federal involvement in others; (2) assess the interrelationships among the full range of programs in each policy field; and (3) consider the possible use of instruments other than grants-in-aid to realize national objectives.[1]

The Commission also reaffirms its earlier recommendation that the federal government assume full financial respon-

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[1] ACIR, *Summary and Concluding Observations, The Intergovernmental Grant System: An Assessment and Proposed Policies* (A-62), Washington, DC, U.S. Government Printing Office, June 1978, p. 78.

sibility for the provision of Aid to Families with Dependent Children, Medicaid, and General Assistance.[2,3]

The Commission now recommends further that, in addition to the above, the federal government move toward the assumption of full financial responsibility for those existing governmental programs which are aimed at meeting basic human needs for employment security, housing assistance, medical benefits, and basic nutrition.[3] In assuming full financial responsibility, the federal government should take steps to ensure uniform levels of benefits, adjusted for cost of living variations, and consistent nationwide administration.[4]

At the same time, separately or in conjunction with efforts to implement the above federal proposals, the Commission recommends that the number of remaining federal assistance 38 **programs should be reduced very substantially, through termination, phaseout, and consolidation. As recommended by the Commission previously, the most likely candidates for consolidation should be those which are, or could be made, (a) closely related in terms of the functional area covered; (b) similar or identical with regard to their program objectives; and (c) linked to the same type(s) of recipient governmental jurisdictions.[5] The primary candidates for termination and phaseout should include: (a) the approximately 420 small federal categorical grant programs which account for only 10% of all grant funds; (b) programs in functional fields in**

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[2] ACIR, *State Aid to Local Government* (A-34), Washington, DC, U.S. Government Printing Office, April 1969, p. vi. In 1969, when this recommendation was adopted, federal public assistance aid programs consisted of Aid to Families with Dependent Children (AFDC), old age assistance (OAA), aid to the blind (AB), and aid to the permanently and totally disabled (APTD). Since then, the last three—the "adult categories"—have been federalized into the supplemental security income (SSI) program. AFDC and Medicaid (medical assistance for the poor and medically indigent) are still federal-state programs, and general assistance remains a state-local program.

[3] Representatives of the Department of Housing and Urban Development (HUD) and the Office of Management and Budget (OMB) supported *Recommendation 1*, except for naming specific programs for full federal financial responsibility.

[4] The question of eligibility for benefits under this fully federal program was debated by the Commission at some length. The Commission agreed that coverage should extend beyond those holding citizenship, but perhaps not as far as to encompass illegal aliens. Since this issue was highly complex and beyond the scope of the research undertaken by the staff, the Commission did not adopt precise wording on the subject of eligibility.

[5] ACIR, *Categorical Grants: Their Role and Design* (A-52), Washington, DC, U.S. Government Printing Office, May 1978, p. 298.

which federal aid amounts to approximately 10% or less of the combined state and local outlays, including federal aid; (c) programs which do not embody essential and statutorily clearly stated national objectives, or which are too small to address significantly the need to which they relate; (d) programs, especially small ones, which have high administrative costs relative to the federal financial contribution; (e) programs which obtain, or could obtain, most of their funding from state and/or local governments, or fees for service, or which could be shifted to the private sector.

The Commission urges that this strategy of full national responsibility for certain programs combined with devolution of responsibilities for others to the state and local levels, or to the private sector, be accomplished by Congress and the President through enactment of legislation after consultation 39 **with the affected subnational governments.**

Recommendation 2

Avoiding Unintended Impacts on State and Local Governments

In this study of the federal role in the federal system, the Commission noted the breakdown of a number of constraints which once limited and disciplined the national role. The erosion of these once viable Constitutional political, institutional, and, until recently, fiscal constraints has contributed to the unwieldy and dangerously overloaded condition of the federal system today.

In the past the Commission has recommended certain basic improvements in the operation of the national government. The Commission recommendations calling for the consolidation of categorical grant programs,[6] enactment of "sunset" legislation,[7] and indexation of the federal income tax are,[8] if anything, more relevant now for their rationalizing and disciplining effects than when they were initially advanced and the Commission strongly reaffirms its support for them.

At the same time, the Commission now concludes that additional major improvements in the national legislative processes are essential to the development of more effective, rational, and publicly accountable national policies and to the restoration of a more balanced and functional federalism.

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[6] *Ibid.*, p. 303.

[7] *Ibid.*, p. 305.

[8] ACIR, *Inflation and Federal and State Income Taxes* (A-63), Washington, DC, U.S. Government Printing Office, November 1976, p. 9.

Recommendation 2A

Fiscal Notes

The Commission finds that federally mandated legislation often imposes unanticipated burdens and costs upon state and local governments. Hence . . .

The Commission recommends that Congress amend the
Congressional Budget Act of 1974 **to require the Congressional**
Budget Office (CBO), for every bill or resolution reported in
40 **the House or Senate, to prepare and submit an estimate of the**
cost which would be incurred by state and local governments
in carrying out or complying with such a bill or resolution.[*]

Recommendation 2B

Temporary Suspension of Crosscutting Policies

The Commission finds that the implementation of crosscutting policies sometimes results in unreasonable burdens on and serious disruptions to the intergovernmental system. Hence . . .

The Commission recommends that Congress enact legislation authorizing standby authority to the President (acting through the Office of Management and Budget) to suspend temporarily implementation of enacted crosscutting national policy requirements when it becomes clear that serious and unanticipated costs or disruptions will otherwise occur. The Commission further recommends (a) that prior to any suspension, the President ascertain through an assessment of the requirement's legislative history and, where needed, through direct contact with the appropriate Congressional committees that the impending disruptions were not anticipated by Congress; (b) that the suspension of the implementation of any given policy requirement by the President be limited to no more than 180 days; (c) that the President immediately notify the appropriate committees of Congress of his action and the reasons for it; and (d) that within 60 days of the suspension,

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[*] OMB supported this recommendation, but cautioned against any effort to require federal reimbursement of state and local costs resulting from federal mandates.

the President present to Congress an alternative remedial legislative proposal.

Recommendation 2C

Regulatory Impact Analyses

The Commission finds that federal regulations often lack adequate prior assessments of the potential costs imposed upon state and local governments and the private sector by such regulations. Hence . . .

The Commission recommends that the Congress enact legislation requiring each federal department and agency, including each of the independent regulatory agencies, to 41 **prepare and make public a detailed analysis of projected economic and noneconomic effects likely to result from any major new rule it may propose.**

Recommendation 3

Strengthening Political Federalism through The Party System

The Commission concludes that the current philosophical and organizational disarray of both of the major political parties minimize their contribution to the appropriate consideration of the size of the public sector and national-state-local responsibilities within it, has weakened the accountability of public officeholders at all levels of citizenry, has undermined their capacity to balance interest group pressures, and has undercut the traditional position of states and localities as strong political partners within the American federal system. Hence . . .

The Commission recommends that the two political parties and the Congress, or state legislatures, as appropriate, adopt measures which will strengthen the parties as forums for the regular consideration of major policy issues by public officials at all levels of government as well as by citizen party members, and which will enhance the status of the political parties as essential bonds between the governors and the governed in a healthy representative democracy.

Specifically, the Commission recommends that consideration be given to the following proposals, among others: (a) mid-term party conventions in both political parties, as

well as more frequent party issue conferences at the state and local level; (b) the facilitation of greater participation by national, state, and local elected officeholders in party conventions; (c) the strengthening of party leadership in Congress and the reinvigoration of party caucuses as instruments for disciplining members and for the deliberation of, and voting on, proposals relating to the budget ceilings provided for in the Congressional budget process; (d) a reduction in the number, dates, and duration of Presidential primaries and the elimination generally of open and blanket primaries.[10]

Recommendation 4

Protecting the Autonomy of State and Local Governments in National Policymaking

The Commission concludes that the states and localities also have contributed, both by acts of omission and commission, to the incessant "intergovernmentalizing" of their own processes, programs, personnel, and budgets. Moreover, despite their increased representational efforts in Washington—and thanks to the growing strength of vertical functional and single issue interest groups—the Commission finds that the sensitivity of national policymakers to the role and needs of subnational governments is less now than it was a generation ago, when there was a few sustained representational undertakings. Hence . . .

The Commission recommends that the states and their localities adopt policies and procedures which will strengthen the autonomy of their decisionmaking processes and will protect and enhance their authoritativeness as governments within the American federal system. To this end, the Commission urges that state governments take those actions necessary to assure that all local governments have adequate taxing authority and/or state financial assistance to perform the services for which they are responsible and to assure that such governments are adequately structured and monitored to assure proper fiscal management and accountability.

The Commission further recommends that the elected officials of the states and their localities, both independently and through their respective national associations in Washington, give priority to protecting and enhancing the status of state and local governments within our federal system and to

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[10] HUD and OMB abstained.

decongesting intergovernmental relationships by (1) participating with appropriate federal officers in identifying intergovernmental activities that are most appropriate for full federal assumption or full devolution to state or local governments or the private sector as proposed in *Recommendation 1*; (2) identifying, through survey techniques, those state and local problem areas in which the need for federal financial assistance is of high, moderate, and low priority; and (3) jointly establishing, on a permanent basis, a state-local legal defense organization, with adequate funding, professional staffing, and appropriate assistance from the states' attorneys general, to monitor and institute legal action opposing "coercive" conditions attached to federal grants and "intrusive" Congressional exercise of the commerce power.[11]

Recommendation 5

Strengthening the Concept of Constitutional Federalism

The Commission finds that the present dysfunctional pattern of intergovernmental relations is partially a byproduct of a decline among the citizenry and officeholders at all levels in their understanding of the meaning and practice of constitutional federalism and of the absence of any dramatic, highly visible effort to address the future of federalism. Hence . . .

The Commission recommends that educators, the media, and public officials at all levels in this decade of the Constitutional Bicentennial stress that the essence of our nearly 200 years of uninterrupted Constitutional development, not to mention the more than 800 years of Anglo-American experience, is the concept of limited government and that this concept of constitutionalism above all else involves a system of regularized constraints on both the governors and the governed and in the American context a basic constraint is the effective application of the federal principle.

In order to help further this educational goal as well as to curb some of the systemic conflicts in contemporary federal-state-local relations, the Commission further recommends a convocation by the President of leaders of Congress, the

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[11] OMB abstained, believing the issue to be primarily of state and local concern. OMB noted with concern however, that the legal defense fund might encourage an increase in lawsuits against the federal government.

Governors, state legislators, county officials, the Mayors, and the public at the earliest possible convenient date to address the current malfunctioning of American federalism and to agree upon an agenda for intergovernmental reform in the 80s.

The Commission further recommends that the top priority items on the convocation's agenda include: (1) a debate on what the term "national purpose" now means in a regulatory and programmatic sense and should mean in a period of fiscal constraint; (2) identification of needed fiscal-functional "trade-offs" between and among the traditional levels in light of their actual and potential revenue raising and servicing roles; (3) a probe of Congress' power to regulate interstate commerce and the related questions of its use to preempt state and local regulatory authority and to mandate services and management obligations on subnational governments; and (4) a defining of the parameters of Congress' conditional spending power, including its use for aiding any and all governmental services, for regulating and for mandating.[12]

Recommendation 6

Ending Ambiguities in the Constitutional Amendment Process

The Commission believes that the power conferred upon the legislatures of two-thirds of the states to petition for a

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[12] OMB opposed this recommendation, believing it to be inadequately justified.

Congressional call for a Constitutional convention to draft correcting amendments should be accorded the same degree of dignity, feasibility, and legal clarity as the more familiar Congressional initiating option. The Commission finds the absence of clear guidelines regarding the unused state initiative approach to amending the United States Constitution has been a subtle, yet significant factor in the breakdown of constraints at the national level. Hence . . .

To end the uncertainties and ambiguities regarding the alternative state initiating amendatory process authorized by the United States Constitution, the Commission reaffirms its recommendation of February 1971, which urged "the Congress at its earliest opportunity" to "enact the proposed Federal Constitutional Convention Amendment Act" in order "to provide needed guidelines for a Constitutional convention to consider specific amendments to the U.S. Constitution—should one be invoked by petition from the states." Hence, it recommends early passage of the pending version of this legislation (S.3 and H.R. 1664, 98th Congress).[14]

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[13] OMB abstained, noting that the Administration has developed no policy on this issue.

COMMISSION MEMBERS

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Bill G. King, Alabama
Mary Eleanor Wall, Illinois

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William V. Roth, Jr., Delaware
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What is ACIR?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, state, and local government and the public.

The Commission is composed of 26 members—nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20—three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from slates nominated by the National Governors' Association, the National Conference of State Legislatures, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House.

Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and as specific as state taxation of out-of-state depositories; as wide ranging as substate regionalism to the more specialized issue of local revenue diversification. In selecting items for the work program, the Commission considers the relative importance and urgency of the problem, its manageability from the point of view of finances and staff available to ACIR and the extent to which the Commission can make a fruitful contribution toward the solution of the problem.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.